

ORDINANCE 2009-02

AN ORDINANCE REPEALING AND REENACTING TITLE 17, FRUITA LAND USE CODE, OF THE FRUITA MUNICIPAL CODE

WHEREAS, The Fruita City Council and the Fruita Planning Commission adopted an updated Fruita Community Plan which identified the need to update the existing Land Use Code, and

WHEREAS, the City of Fruita, pursuant to Colorado Revised Statutes, Article 29-20 and Section 31-23-101 et. seq., 24-65-101 et. seq. and 31-2-107 et. seq., is now proposing to adopt a new set of land use regulations to implement the updated Fruita Community Plan, and

WHEREAS, as part of the process of adopting new land use regulations, a seven member Focus Group was formed discuss the details of the new Code language, several public meetings were held including several Planning Commission and City Council public meetings for discussion and to gather community input for the update to the Land Use Code, and

WHEREAS, the Fruita Planning Commission held a public hearing on February 10, 2009, and recommended approval with conditions for the revised Land Use Code.

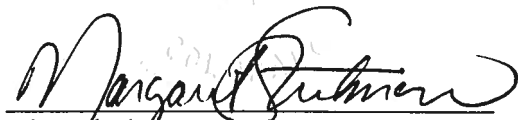
NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA COLORADO AS FOLLOWS:

Title 17, Land Use Code, of the Fruita Municipal Code and all applicable Ordinances are hereby repealed and reenacted to read as follows:


PASSED AND ADOPTED BY THE FRUITA CITY COUNCIL THIS 3RD DAY OF MARCH, 2009.

ATTEST:

City of Fruita:



City Clerk



Mayor H. Kenneth Henry

TITLE 17
LAND USE CODE

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TITLE 17
LAND USE CODE

Chapter 17.01
GENERAL PROVISIONS

Sections:

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17.01.010 SHORT TITLE. This Title 17 of the Fruita Municipal Code shall be known and may be cited as the Fruita Land Use Code, as amended.

17.01.020 AUTHORITY.

- A. This Title is adopted pursuant to the authority contained in Sections 31-23-101 et. seq., C.R.S. (Planning and Zoning), Sections 29-20-101 et. seq., C.R.S.(Land Use Control and Conservation), Sections 24-65-101 et. seq., C.R.S.(Colorado Land Use Act), Sections 24-67-101 et. seq., C.R.S.(Planned Unit Development Act), Title 29, Article 20, C.R.S. (Local Government Control Act of 1974), Section 31-2-107, C.R.S., (Adoption of Home Rule Charter) and the Fruita City Charter.

- B. Whenever any provision of this Title refers to or cites a section of the Colorado Statutes and that section is later amended or superseded, this Title shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

17.01.030 PURPOSES.

This Title is adopted in accordance with the City of Fruita Master Plan and is designed for the purpose of promoting the health, safety and welfare of the present and future inhabitants of the community, including:

- A. Lessening congestion in streets, avoiding an excessive amount of streets, facilitating traffic circulation, and minimizing conflicts between vehicular, bicycle and pedestrian traffic;
- B. Securing safety from fire, flood and other dangers;
- C. Providing adequate light and air;
- D. Protection and enhancement of the city's tax base;
- E. Securing economy in governmental expenditures;
- F. Fostering business and economic development;
- G. Protecting both urban and non-urban development and conserving the value of property;
- H. Preventing the overcrowding of land and avoiding undue concentration of population;
- I. Separating incompatible uses and densities so as to avoid negative impacts of uses on each other;
- J. Providing for a variety of housing and neighborhood types and densities and a range of housing costs;
- K. Facilitating adequate provision of transportation, water, wastewater, schools, parks, recreation and other public services and utilities;
- L. Avoiding the effects of public nuisances; such as, noxious odors, fumes, air pollution, visibility impairment, noise and potential hazards such as fire, explosion, irradiation, chemical and nuclear pollution;
- M. Insuring that new growth and development does not result in an economic burden to existing residents and taxpayers;
- N. Insuring that the negative impacts resulting from new development, both onsite and offsite, are appropriately mitigated; and

- O. Insuring that adequate provisions are made for infrastructure and services to new development including, but not limited to the following:
1. Water service
 2. Wastewater service
 3. Natural gas service
 4. Electric service
 5. Communications service
 6. Cable service
 7. Parks and recreation
 8. Open space
 9. Irrigation

17.01.040 JURISDICTION.

- A. This Title shall be applicable within the corporate boundaries of the city.
- B. In addition to other locations required by law, a copy of a map showing the boundaries of the city shall be available for public inspection in the Community Development Department.

17.01.050 EFFECTIVE DATE. The provisions of this Title were originally adopted and became effective on March 27, 1995. This amended Title was adopted on March 3, 2009, and became effective on April 3, 2009.

17.01.060 RELATIONSHIP TO OTHER LAWS.

- A. To the extent that the provisions of this Title are the same in substance as previously adopted provisions in the city's zoning, subdivision, or flood control ordinances replaced by this Title, the provisions of this Title shall be considered as continuations thereof and as new enactments unless otherwise specifically provided. In particular, if a land use did not constitute a lawful nonconforming use under a previously adopted zoning ordinance, such use does not achieve lawful nonconforming status under this Title merely by the repeal of the previous zoning ordinance.

- B. This Title is not intended to repeal, abrogate, annul or in any way impair or interfere with existing laws or ordinances when there is no conflict between this ordinance and existing laws and ordinances. This Title is not intended to repeal, abrogate, annul or in any way impair or interfere with restrictive covenants running with any land to which the city is a party. In those situations where this Title imposes a greater restriction upon land, building or structure than is imposed or required by existing provisions of law, ordinance, contract or deed, the provisions of this Title shall control.

17.01.070 RELATIONSHIP TO CITY MASTER PLAN. It is the intention of the city that this Title implement the planning policies adopted by the City Council in the components of the Fruita Master Plan, and other planning documents. While the City Council reaffirms its commitment that this Title and any amendments thereto be in general conformity with adopted plans and other planning studies, the City Council hereby expresses its intent that neither this Title nor any amendment thereto may be challenged on the basis of any alleged nonconformity with any planning document, unless otherwise provided by law.

17.01.080 APPLICABILITY.

- A. Except as otherwise specifically provided, the provisions and requirements of this Land Use Code shall become effective on the effective date hereof, and shall be applicable to all developments, subdivisions or uses of land commenced within the city after said date. Any ordinance amending this Title shall become effective thirty (30) days following publication, unless otherwise specified in said ordinance, and shall be applicable to all developments, subdivisions or other uses of land commenced within the city after said date.
- B. Any development, subdivision or use of land for which an application has been filed and application fees have been paid prior to the effective date of this Land Use Code may follow this Title as of the date of filing such application or, at the option of the applicant, may follow this Title, in whole, as amended.
- C. Any land which has been subdivided prior to the effective date of this Land Use Code and for which there has been no Planning Clearance, Site Design Review, Conditional Use Permit, or other lot specific land use review or other review substantially similar to the development review required by this Title shall be subject to those provisions of this Title applicable to such development review.
- D. Except as otherwise provided herein, the provisions and requirements of this Land Use Code shall be deemed minimum requirements and stricter provisions may be imposed when the Planning Commission or City Council find such provisions to be necessary to promote the purposes and provisions of this Title.

- E. Upon submittal of a land development application as provided in this Land Use Code, the applicant expressly accepts the time schedules for review as set forth herein and waives any right to any other time schedule for review.
- F. If any provision of this Land Use Code conflicts with other provisions of the Fruita Municipal Code, the provisions of this Title shall control and take precedence.

17.01.090 ADMINISTRATION OF LAND USE CODE.

- A. Except as otherwise specifically provided, primary responsibility for administering and enforcing this Title may be assigned by the City Manager to one or more individuals. Final authority is maintained by the City Manager.
- B. The Community Development Director shall serve as the administrative head of the Community Development Department. The City Manager and Mayor are authorized to sign plats indicating approval of Major and Minor Subdivision final plats.

17.01.100 ENFORCEMENT AND PENALTY; DEADLINES.

- A. After the effective date of this Title, any person who knowingly erects, constructs, reconstructs, uses or alters any building, structure or land or who knowingly subdivides or uses any land in violation of this Title commits a Class B municipal offense. Any person who violates any provision of this Title shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Title are committed, continued or permitted. Nothing in this Section shall be construed to prevent the city from pursuing any other remedies it may have for violations of this Title.
- B. In case any building or structure is proposed to be erected, constructed, reconstructed, altered, moved, or used or any land is proposed to be subdivided or used in violation of this Title, the city, in addition to other remedies provided by law, may institute an appropriate action to prevent, enjoin, abate, or remove the violation; to prevent the occupancy of the building, structure, or land; or to prevent any illegal act or use.
- C. In addition to the other enforcement provisions in this Title, the city may exercise any and all enforcement powers granted to it by State Law, including without limitation to Section 31-23-308 C.R.S., (Enforcement of Zoning Ordinance), Section 24-67-106 C.R.S., (Enforcement of Planned Unit Development Plan), and Section 31-23-215 C.R.S. (Subdivision Enforcement).
- D. Any land development permit granted under this Title may be revoked, following public hearing, upon the determination that one (1) or more of any conditions or requirements contained in the land development permit, including any conditions set forth pursuant to subsection 17.01.080(D) has been violated. In the event the Community Development

Director has reasonable cause to believe that one (1) or more conditions or requirements of the land development permit has been violated, the Community Development Director shall serve the record owner of the property subject to the land development permit and the holder of such permit if other than the owner, in person or by certified mail, return receipt requested, a notice to show cause why the land development permit should not be revoked and any vested property rights related thereto forfeited. Such notice shall state the date, time and place for a public hearing at which the City Council will consider whether the land development permit should be revoked. The notice shall also set forth a concise statement of the grounds for revocation. The notice shall be served at least fifteen (15) days prior to the date of the hearing. The public hearing shall be conducted by the City Council, pursuant to Chapter 2.60 of the Fruita Municipal Code. Following such hearing, the City Council shall issue a written decision either revoking the subject land development permit or finding insufficient evidence exists to revoke the permit.

E. Suspensions.

1. If, in the process of inspecting improvements being constructed pursuant to this Title and for which a valid land development permit has been issued, a defect, design flaw or an unforeseen condition is discovered or work is being performed which has not been approved by the city which, if uncorrected, would create a non-conforming use or structure, or would violate other provisions of this Chapter, or state law or applicable design and construction standards, the City Engineer or Community Development Director may administratively suspend existing approved land development permits, and suspend the issuance of new land development application approvals, pending correction of the flaw, defect or unforeseen condition. Suspensions may include partial suspension of specific tasks, or complete stop work orders.
2. The applicant is responsible for correcting said flaw, defect or unforeseen condition, including any necessary design or engineering work, information submitted for city approval, and the cost of construction.
3. Any suspensions so issued by the city, and any subsequent releases of a suspension, shall be done in writing and be transmitted to the project representative.
4. Any permit or approval that remains suspended for sixty (60) days automatically can be considered to be revoked, requiring re-submittal of a permit application or request for approval and payment of applicable fees.
5. Specific to subdivisions, if an applicant elects not to correct said flaw, defect or unforeseen condition to the satisfaction of the city, the Community Development Director may also initiate actions to terminate the subdivision improvements agreement following the procedure described in Section 17.21.120.

6. Specific to the issuance of a permit or approval under this Title, the city imposes a specific requirement on the applicant for the permit or approval to remedy any impacts to city infrastructure caused by the construction. This includes but is not limited to repair or replacement of damaged sidewalk and streets, cleaning and sweeping of streets to remove dirt and debris, removal of construction debris, and cleaning and jetting of storm drains. The city retains the right to suspend the issuance of a Certificate of Occupancy or other land development applications until remedial actions are performed to the satisfaction of the city.
- F. The following deadlines for submittal processing and review of a multi-step development approval shall apply. The procedure set forth in subsection (D) hereof may be followed for revocation of any development approval, which has expired prior to the following applicable deadlines:
1. For land development applications deemed to be complete which require a public hearing before both the Planning Commission and City Council, with the exception of annexations, the following decision deadlines apply:
 - a. Planning Commission - 75 days
 - b. City Council - 110 days
 2. For annexation applications deemed to be complete, the following decision deadlines apply:
 - a. Setting the City Council hearing date to find the property eligible for annexation – 75 days
 - b. City Council hearing to find the property eligible – 120 days
 - c. Setting the hearing date to annex the property shall coincide with the accompanying land use final approval (Subdivision, Site Design Review, Conditional Use Permit, etc.). If an annexation agreement is to be used instead, the decision deadlines to annex property shall be 75 days for the Planning Commission and 110 days for the City Council.
 3. For Variance applications deemed to be complete, the Board of Adjustment shall render a decision within 75 days.
 4. For applications deemed to be complete which require no public hearings and can be administratively approved by staff, the following decision deadlines apply:
 - a. Planning Clearances – 5 days
 - b. Site Design Review – 70 days
 - c. Final Plats – 70 days
 - d. Sign Permits – 5 days

- e. Temporary Use Permits – 5 days
 - f. Home Occupation Permits – 5 days
 - g. Minor Subdivisions – 70 days
- G. Nothing in this Title shall prohibit the continuation of previous enforcement practices undertaken by the Community Development Department pursuant to City Council action or applicable law.

17.01.110 REVIEW AND INSPECTION FEES.

- A. An applicant for a land development application approval, including planning clearances, sign permits, conditional use permits, annexation petitions, subdivisions, planned unit developments, zoning amendments, variances, and other land development applications, shall pay the required fees as established by the City Council.
- B. Application fees shall be paid at the time of project submittal. The city will bill the developer additionally for processing fees that exceed the initial fee. These fees shall be paid within thirty (30) days of billing by the city. The city reserves the right to not process land development applications for which the applicable fees have not been paid, and reserves the right to not schedule public hearings on such applications until the required fees have been paid. No final approval of a land development application shall be granted and no recording of applicable development plans, plats and supporting documents shall occur until all required fees have been paid by the applicant. If an application, plan, plats or other documents submitted by the applicant under the provisions of this Title are incomplete or are modified so as to require additional checking and review, or if the applicant requests a continuance of a project for which public notice has already been provided, the city reserves the right to require the payment of additional fees.
- C. Prior to approval and acceptance of the construction and installation of public and private development or subdivision improvements, the subdivider or developer shall pay to the city the actual cost, including the reasonable value of city employees' time, of all inspections of such improvements, including but not limited to, streets, curbs, gutters, street signs, street lighting facilities, water distribution system, wastewater collection system, storm management system, irrigation system, park, and landscaping improvements, made or conducted at the direction of the Community Development Department Director or the City Engineer. The amount of the fees charged for such inspections shall be established by resolution of the City Council. In the event extraordinary inspections are necessary, the city reserves the right to assess, in addition to established fees, extraordinary inspection costs.
- D. In addition to the fee schedule established by resolution of the City Council, a developer is also responsible for payment to the city for all extraordinary review and inspection costs performed by or contracted for by the city, including but not limited to drainage

studies, traffic studies, geotechnical investigations, reviews and inspections requiring specialized equipment and/or the services of consultants. These additional fees shall be paid to the city before the final inspection is performed by the city and the first partial release of the performance guarantee is authorized by the city.

17.01.120 COMPUTATION OF TIME

- A. Unless otherwise specifically provided, the time within which an act is to be done shall be based on calendar days and shall be computed by excluding the first and including the last day.
- B. Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is delivered by mail, three (3) days shall be added to the prescribed period.

17.01.130 PUBLIC NOTICES.

- A. Decisions Requiring a Public Hearing. For every public hearing required by this Title, with the exception of time extensions and subdivision and development improvement agreements, and unless otherwise required by law, the city shall notify the public of the date, time and place of such hearing by:
 - 1. Publication once in a newspaper of general circulation within the city, at least 15 days prior to the public hearing; and
 - 2. Posting notice at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, at least five (5) days prior to the hearing; and
 - 3. Sign(s) posted on or near the subject property. One or more notices that are sufficiently conspicuous in terms of size, location and content to provide reasonably adequate notice to potentially interested persons of the land use action at a specified date and time. Such notice(s) shall be posted at least fifteen (15) days prior to the public hearing; and
 - 4. Written notice mailed to property owners within three hundred and fifty (350) feet of the subject property or more until a minimum of twenty (20) unique property owners are provided notice at least fifteen (15) days prior to the public hearing. This requirement does not apply to applications that are not property specific such as Land Use Code or Master Plan amendments.

B. Administrative Decisions.

1. Minor Subdivisions and Site Design Review shall require public notice prior to the administrative decision the same as the public hearing decision requirements stated in subsection A of this section.
2. Planning Clearances, Sign Permits, Temporary Use Permits, Home Occupation Permits and Final Plats require no public notice.

C. When a proposed amendment to the zone district regulations pertains to an entire zone district or all zone districts, notice shall be given only by publication in a newspaper of general circulation within the city, at least 15 days prior to the public hearing and posting of the notice at least five (5) days prior to the hearing at the Fruita City Hall, 325 East Aspen, Fruita, CO 81521, with no posting on any specific property or mailing required.

D. Major Activity Notice. When a subdivision or commercial or industrial activity is proposed which will cover five (5) or more acres of land, the City of Fruita shall send notice to the Colorado Land Use Commission, the State Geologist, and the Board of County Commissioners of the proposal prior to approval of any zoning change, subdivision or planning clearance for a building permit application associated with such a proposed activity.

E. Notice to Mineral Estate Owners. In addition to the notices described above, and in accordance with Section 24-65.5-103, C.R.S., not less than thirty (30) days before the date scheduled for the first (1st) public hearing on an application for a subdivision creating more than one additional buildable lot, the applicant shall provide notice to mineral estate owners, as defined in Section 24-65.5-102(5), C.R.S. The notice shall be sent and shall contain all of the information required by Section 24-65.5-103, C.R.S. Proof of the giving of such notice shall be submitted by the applicant to the Community Development Department, on forms provided by the Community Development Department, prior to commencement of the hearing.

17.01.140 SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, or phrases of this Title are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Title since the same would have been enacted without the incorporation into this Title of such unconstitutional or invalid section, paragraph, sentence, clause or phrase.

Chapter 17.03
BASIC DEFINITIONS AND INTERPRETATION

Words contained in this Chapter are those having a special meaning relative to the purposes of this Title. Words not listed in this Chapter shall be defined by reference to a published standardized dictionary. Words used in the singular include the plural and words used in the plural include the singular.

201 PLAN. A regional plan for wastewater collection and treatment to prevent pollution of the State's water.

ABUTTING PARCELS. Parcels which are directly touching and have common parcel boundaries. Parcels separated by a public right-of-way are not considered abutting, but would be adjacent.

ACCESS PERMIT. A permit obtained from the City of Fruita, Mesa County, or the State of Colorado allowing access to a public street, road or highway.

ACCESSORY DWELLING UNIT. Also known as granny flat, elder cottage or accessory apartment. A separate self-contained dwelling unit including a separate kitchen and bathroom, which is located on the same parcel or lot but is secondary to a principal dwelling unit . An accessory dwelling unit may be attached to the principal dwelling unit or detached in an accessory structure.

ACCESSORY STRUCTURE. A detached subordinate structure, the use of which is customarily incidental to, and supportive of, the principal structure or the principal use of land, and which is located on the same parcel of ground with the principal structure or use.

ACCESSORY USE. A use conducted in conjunction with a principal use of a property and constitutes an incidental or insubstantial part of the total activity that takes place on the lot or is commonly associated with the principal use and integrally related to it.

ADJACENT. For purpose of this Land Use Code, shall mean surrounding property or use, any portion of which is within a three hundred and fifty (350) foot radius.

ADMINISTRATIVE DECISION. Any decisions regarding a land development application or development issue made by the Community Development Director, City Engineer or City Manager pursuant to this Title. The City Manager retains the final authority in administrative decisions.

ADMINISTRATOR. The Community Development Director as selected by the City Manager to serve within the Fruita Community Development Department.

AFFORDABLE HOUSING UNIT. Affordable housing unit is a low/moderate income housing unit which is financially sponsored by a government finance agency and/or which is developed or sponsored by a private non-profit affordable housing agency such as Housing Resources of Western Colorado, Habitat for Humanity, Family Health West, the Grand Junction Housing Authority, or any other entity or agency, as determined by the Fruita City Council.

AGRI-BUSINESS. A business and/or commercial use operated primarily for the support of agricultural needs. It may consist of products, materials, and equipment servicing and sales; storage and/or processing of agricultural products and/or animals; medical and/or technical support services.

AGRICULTURAL PRODUCE. Fruit, vegetables, eggs and honey prior to processing of any kind other than washing. Canned fruits or vegetables, preserves, wine, meat and dairy products shall not be considered agricultural produce for the purposes of this Title.

ALLEY. A service road providing a secondary means of public access to abutting property and not intended for general traffic circulation.

ALTERATIONS TO HISTORIC SITE. Any proposed modification to a designated historic site, structure or district which could have an affect on the character of the historic resource relative to the criteria by which it was designated. Examples of alterations to structures may include additions, any exterior modifications, including signage to be affixed to the facade, and any interior modifications that may affect the characteristics for which the structure was designated.

ANIMAL CLINIC. Facility used for the medical care and treatment of animals under the supervision of a licensed veterinarian with no outdoor accommodations for animals.

ANIMAL HOSPITAL. Facility used for the medical care and treatment of animals under the supervision of a licensed veterinarian with outdoor accommodations for animals.

ANIMALS, AGRICULTURAL. Those animals commonly associated with agricultural use; such as, cattle, horses, mules, burros, pigs, sheep, goats, rabbits, chickens, ducks and geese, whose primary value is commercial rather than personal enjoyment.

ANIMALS, HOUSEHOLD. Those animals which are commonly kept as pets, whose primary value is personal enjoyment. These animals shall not be raised for commercial purposes and shall be limited to common species whose presence in the neighborhood does not arouse unusual community odor, noise, health, interest or curiosity sufficient to attract the community residents to a specific neighborhood.

ANIMALS, OTHER. Those animals not defined as household animals or agricultural animals or exotic

animals.

ANNEXATION. The process of incorporating an unincorporated portion of Mesa County into the boundaries of the city pursuant to the Municipal Annexation Act of 1965, Sections 31-12-101, et. seq., C.R.S.

ANTENNA. Any device designed and intended for transmitting or receiving television, radio, microwave signals, or other electromagnetic waves. An antenna includes all mounting and stabilizing items such as a tower, a pole, a bracket, guy wires, hardware, connection equipment and related items.

APPEAL. A request for a review of the City of Fruita staff's interpretation of any provisions of this Title.

APPLICANT. Any person, developer, subdivider, petitioner, property owner, firm, partnership, joint venture, association, corporation, group or organization who may apply for any land development permit, approval or decision governed or required by this Title.

APPLICATION. A written request for any land development permit, approval or decision governed or required by this Title. An application is not complete until each requirement of this Title is met and all fees are paid.

AS BUILT DRAWING. An engineering drawing indicating the final, as constructed location, grades, elevations, and construction details of streets, utilities, and other public facilities.

ATTACHED. Buildings joined and architecturally integrated by means such as common walls or a common roof.

AUTO REPAIR SHOP. A shop or place of business used for repair and maintenance of automobiles, trucks and other motor vehicle equipment. All motor vehicle equipment on the property shall carry a valid registration, have a registration or title applied for, or show a work order. Motor vehicle equipment, for which the shop operator holds no valid registration or work order shall be classified as salvage and junk and may not be kept, stored or worked on, in or on the property of an auto repair shop.

AUTOMOBILE SALES ESTABLISHMENT AND LOTS. An open area under private ownership used for the display, sale or rental of new and/or used motor vehicles where no repair work is done, except minor incidental repair of motor vehicles, to be displayed, sold or rented. An office/shelter structure as an accessory use is permitted.

AWNING. A projection from a building which shelters an area next to the building, supported entirely by the exterior wall of the building, composed of a covering of rigid or non-rigid material and/or fabric on a

supporting framework that may be either permanent or retractable. Also known as a canopy.

BASE DENSITY. The maximum number of dwelling units/lots permitted by right, per gross acre, on a parcel of land within a zone district.

BED AND BREAKFAST FACILITY. A facility of residential character that provides sleeping accommodations with or without meals for hire on a day-to-day basis.

BIKELANE. An area defined on a public roadway for exclusive use by bicyclists.

BIKEPATH. An off-street trail available for use by bicyclists.

BLOCK. A land area consisting of contiguous lots established by recorded plats; usually bordered by public ways or spaces.

BLOCK FRONTAGE. All property fronting on one side of a street between intersecting or intercepting streets, or between a street and a street right-of-way, waterway (wider than thirty (30) feet), or end of a dead-end street. An intercepting street shall determine only the boundary of the frontage of the side of the street that it intercepts.

BONUS DENSITY. The additional number of dwelling units permitted on a parcel of land above the base density permitted in a zone.

BUFFER. A distance separation between land uses or buildings. Buffers typically contain landscaping. Accessory uses or structures, dumpsters, parking areas, etc. are not permitted in designated buffer areas.

BUILDING. Any permanent roofed structure built for the shelter and enclosure of persons, animals, materials or property of any kind. Does not include mobile or manufactured homes, but does include covered decks, porches, gazebos and sheds.

BUILDING DESIGN CAPACITY. The maximum occupancy load of a building as provided by the most recent version of the International Building Code, adopted by the city.

BUILDING ENVELOPE. Lines enclosing a horizontal and vertical space in which a building is to be constructed, which lines indicate the maximum exterior dimensions of the proposed building, covered porches, breezeways and other portions of the building.

BUILDING FACADE. The exterior face of a building.

BUILDING HEIGHT. The maximum vertical distance measured from finished grade near foundation to the highest part of the structure, including roof equipment or attachments, but excluding antennas.

BUILDING LOT. A lot which meets the applicable requirements for construction of a building.

BUILDING PERMIT. A permit issued by the Mesa County Building Department, acting on behalf of the City of Fruita after receipt of a Planning Clearance for a building permit issued by the City Community Development Department, which allows the construction of a structure within the city.

BUSINESS RESIDENCE. A single residential dwelling unit, accessory to, and located on the same lot, as a structure primarily devoted to business or commercial uses.

CANOPY. See Awning.

CARPORT. A structure with roof providing space for the storage of one or more automobiles and enclosed on not more than two (2) sides by walls.

C.C.I.O.A. The Colorado Common Interest Ownership Act, Sections 38-33.3-101, et. seq., C.R.S., governing the formation and operation of common ownership communities and condominiums.

CERTIFICATE OF OCCUPANCY. Refers to the Certificate of Occupancy defined in the currently adopted International Building Code or the permission to occupy a development for the approved use, granted by the City of Fruita.

CHANGE IN USE. A change from one principal use of a building or land to another principal use of the building or land. There may or may not be an increase in the size of the existing building or extent of the use of the land, but one or more of the following factors are present and confirmed for the new use:

1. The new use has an off-street parking requirement under this Title which is greater than parking available and necessary for the previous use; or
2. The number of vehicle trips generated by the new use is or will be greater than the number of vehicle trips generated by the previous use as determined by the Institute of Transportation Engineers Trip Generation, latest edition; or
3. The amount of stormwater runoff or impervious (to drainage) surface area will be increased with the new use.
4. The amount of wastewater generated by the use will be greater than the previous use.

[**Note:** If there is a change from one principal use of a building or land to another principal use of a building or land, but there is no increase in the size of the existing building or extent of the use of the land and none of the above previous factors apply, a change of use shall not have occurred.]

CHANNEL. A natural or artificial low-lying area with definite bed and banks, which confines and conducts continuous or periodic flows of water.

CHIEF BUILDING OFFICIAL. The person appointed by the Fruita City Manager to administer the Building Codes, as adopted by the City of Fruita, for the city.

CHURCH. Any structure or building for organized public worship.

CITY. The City of Fruita.

CITY ENGINEER. The individual selected by the City Manager to serve as the appointed Chief Engineer for the City of Fruita.

CIVIC SPACES. Public areas, such as plazas, landscaped courtyards, alcoves or pocket parks that provide pedestrian rest areas and/or aesthetic relief.

CLUSTER/CLUSTERED. A group of dwelling units that are placed close together in order to preserve open space.

CODE ENFORCEMENT OFFICER. The individual hired by the Community Development Director to perform duties within the community that enforce adherence to the Land Use Code by all individuals for the health, safety and welfare of the community and the residents therein.

COMMUNITY CORRECTIONS FACILITY.

1. A facility providing residential or non-residential services operated under the direction of a Community Corrections Program, as defined by Sections 17-27-101, et. seq., C.R.S.; or
2. A facility providing residential or non-residential services substantially similar to that described in Section 17-27-102(3), C.R.S., although not being administered pursuant to Sections 17-27-101 et. seq., C.R.S., which is operated by a private individual, partnership, corporation or association.

A community corrections facility shall manage and supervise "offenders" in accordance with adopted standards and pursuant to a contract supervised and administered by an agency of the State of Colorado;

such a facility is not required to be in direct privity of contract with the State so long as it is subject to the same, or equivalent, standards and rules applicable to a facility which is subject to Sections 17-27-101, et. seq., C.R.S. The applicant for a community corrections facility which is not administered pursuant to Sections 17-27-101 et. seq., C.R.S. shall identify, and provide as required by the Director, the rules and contract under which such facility is regulated and administered. A community corrections facility shall provide to the Director, upon request, evidence that the facility/program is subject to 'program audits' by the State, or an agent of the State, and is operating and has been operated in compliance with all applicable standards. "Offenders" means, for the purposes of this definition, a person accused or convicted of a felony, misdemeanor or other criminal offense.

COMPOSITE SITE PLAN. A site plan submitted and recorded with the platting of subdivisions. The composite site plan should show information not typically included on the plat, such as; specific driveway restrictions, non-typical building setback lines, developer/HOA maintained fencing, etc.

CONCEALED OR STEALTH TELECOMMUNICATIONS TOWER. Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land, buildings, structures and uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements and towers designed to not look like a tower; such as, light poles, power poles and trees. The term stealth does not necessarily exclude the use of un-camouflaged lattice, guyed or monopole tower designs.

CONCEPT PLAN. The optional first step of a Planned Unit Development proposal, pursuant to Chapter 17.17.

CONDITIONAL USE. A use which, because of its unique or varying characteristics, cannot be properly classified as an allowed use in a particular zone district. After due consideration, as provided for in Section 17.13.040 of this Title, of the impact upon neighboring land and of the public need for the particular use at a particular location, such conditional use may or may not be approved.

CONDOMINIUM. A common interest community in which portions of the real estate are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of the separate portions. A common interest community is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

CONDOMINIUM UNIT. A unit in a condominium consisting of any enclosed room(s) occupying all or part of a floor(s) in a building of one or more floors used for residential, professional, commercial, or industrial purposes together with the interest in the common elements appurtenant to that unit.

CONSERVATION EASEMENT. A deed restriction placed on property that restricts its owner to

specific limited uses of the property, typically agriculture or as passive, public or private open space.

CONSTRUCTION. For the purposes of this Title, any improvements made to land, existing buildings, or other above or below ground facilities, and any erection or installation of new structures or above or below ground facilities for which a Planning Clearance or other land development application approval is required by the Fruita Municipal Code.

CONSTRUCTION PLAN. Complete construction drawings of a facility or improvement, including but not limited to road plans and profiles, drainage plans and utility plans.

CONVEYANCE OF THE LAND. Transfer of all or a part of a title or equitable interest in land; the lease or assignment of an interest in land; the transfer of any other land interest.

COOPERATIVE PLANNING AREA. An area defined in an intergovernmental agreement between Mesa County, the City of Fruita, and the City of Grand Junction and generally located between 20 Road and 21 Road from the Bureau of Land Management Lands on the north to State Highway 6 & 50 on the south and extending south to the Colorado National Monument in areas between 18 ½ Road and 21 Road. The Cooperative Planning Area is also shown on the TDR/C Sending Area Map contained within the Transferable Development Rights/Credits Program Manual; also known as the Community Separator and Buffer Zone.

COTTAGE OR COTTAGE CLUSTER. A single lot or parcel of land developed with two or more detached single family dwellings.

COUNCIL. The Fruita City Council.

COUNSELING CENTER. A facility where individuals or small groups are provided professional counseling assistance with personal, emotional, marital, medical, or similar problems on an out-patient basis.

COUNTY. Mesa County.

CUL-DE-SAC. A local dead-end street terminating in a vehicular turnaround area.

CURB FACE. The vertical or shaped portion of a curb, facing the roadway, and designed to direct stormwaters.

DAYCARE FACILITY. A facility for child care in a building which is maintained for the whole or part of a day for the care of seven (7) or more children under the age of sixteen (16) years and not related to the owner, whether such facility is operated with or without compensation for such care and with or without

stated education purposes. The term shall include facilities commonly known as "daycare centers", "day nurseries", "nursery schools", "kindergartens", "preschools", "play groups", "day camps", "summer camps", "centers for mentally retarded children" and any facilities which give twenty-four (24) hour care for dependent and neglected children. The term shall include those facilities for children under the age of six (6) years with stated educational purposes operated in conjunction with a public, private or parochial college or a private or parochial elementary school system of at least six (6) grades. The term "kindergarten" shall mean any facility providing an educational program for children only for the year preceding their entrance to the first grade, whether such facility is called a kindergarten, nursery school, preschool, or any other name.

DAYCARE, FAMILY. The care, protection and supervision of children or adults, on a regular basis, away from their primary residence for less than twenty-four (24) hours per day.

DECK. Open floor space above ground level, without a roof. A deck over thirty (30) inches above finished grade (ground surface) requires a building permit.

DECORATIVE WALL. Masonry or masonry with wood, with surface variations so that it is dissimilar from a plain cinder block wall.

DEDICATION. Land, easements, or rights-of-way which are permanently conveyed to a public entity or utility and accepted by that public entity or utility.

DEED. A document conveying and evidencing a conveyance of land or a conveyance of an interest in land.

DEED RESTRICTION. A legal document recorded with the County Clerk and Recorder describing restricted activities on a lot or parcel of land.

DEPARTMENT. The Fruita Community Development Department.

DESERT LANDSCAPING. The use of landscaping materials, both vegetative and non-vegetative, which are native to an arid or semiarid climate. (See xeriscape.)

DESIGN CAPACITY. The practical capacity of a facility, whether a road, building, ditch, pond, or other structure determined by engineering analysis to be capable of accommodating the design volume or load.

DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS MANUAL. City of Fruita regulations and standards concerning the construction of wastewater systems, sanitary sewer systems, street system and other transportation systems, storm drainage and erosion control systems, irrigation systems and others.

DESIGN STANDARDS. Local, State, or national criteria, specifications or requirements referenced within this Title and used for the design of public or private infrastructure such as, streets, sewers, and sidewalks.

DEVELOPER. A person, firm, partnership, joint venture, association, corporation, group or organization who shall participate as owner, promoter, developer or sales agent in the planning, platting, development, promotion, sale or lease of a development.

DEVELOPMENT. Construction, improvement, or remodeling of a building or placement of a use on a parcel of land. Development may be deemed to include all property adjacent or abutting, whether or not to be immediately planned or developed, under the same or substantially the same ownership. Development includes, but is not limited to any of the following: the division of a parcel of land into two (2) or more lots; the construction, reconstruction, conversion, excavation, clearing of roadways or building sites; the extension of utilities; landfill or land disturbance; any use or extension of the use of land; the placement of a use on any property; or any planned unit development. Development does not include movement of earth associated with crops and/or farming or landscaping.

DEVELOPMENT APPLICATION. See Application.

DEVELOPMENT IMPROVEMENTS AGREEMENT (DIA). An agreement between the city and a property owner and developer which provides for the construction, installation and development of public or shared improvements associated with a development and includes a performance guarantee and various exactions required by the city as further described in Chapter 17.21 of this Title.

DEVELOPMENT RIGHT/CREDIT. The ability to build one (1) dwelling unit in a Sending Area, as such ability is created and administered pursuant to an intergovernmental agreement and/or the regulations of the appropriate jurisdiction and Chapter 17.09 of this Title, concerning Transferable Development Rights/Credits. For purposes of its use in this Code, the term Development Right is also known as a Development Credit.

DEVELOPMENT SCHEDULE/PHASING SCHEDULE/FILING SCHEDULE. A schedule approved by the City Council showing the order and timing for the start and completion of various parts of a development. Such a schedule is mandatory and considered a condition of approval of a subdivision to be completed in phases or filings.

DIRECTOR. The Director of the City of Fruita Community Development Department.

DISBURSEMENTS AGREEMENT. An agreement recorded in the records of the County Clerk and

Recorder which binds a developer and/or landowner to expend funds required for the construction of development improvements, and which provides for the escrow of funds controlled by a financial institution and the city to secure the completion of improvements.

DOWNTOWN AREA. The area within the city designated in the Fruita Community Plan as Downtown Mixed Use.

DOWNTOWN CORE. The area designated on the Fruita Community Plan as Downtown Mixed Use south of Pabor Avenue. This area extends from Pabor Avenue south to the railroad tracks and from Little Salt Wash to Elm Street.

DRIVEWAY. A paved or unpaved area used for the ingress and/or egress of vehicles and allowing access from a street to a building or other structure or facility. Also known as a driving aisle when used in reference to a parking lot.

DUPLEX. A building containing two (2) dwelling units totally separated from each other by an unpierced wall extending from ground to roof located on a single lot and all under the same ownership.

DWELLING, CARETAKER. A dwelling designed for a resident to oversee a commercial or industrial establishment.

DWELLING, MULTI-FAMILY. A building containing three or more dwelling units arranged, designed for, and intended for occupancy of three (3) or more family units independent of each other, having independent cooking and bathing facilities located on a single lot and all under the same ownership.

DWELLING, SINGLE-FAMILY, ATTACHED. One of two (2) or more single family dwelling units having a common or party wall separating dwelling units with each dwelling unit located on a separate lot.

DWELLING, SINGLE-FAMILY, DETACHED. A residential building containing not more than one (1) dwelling unit entirely surrounded by open space on a single lot. This includes modular houses.

DWELLING UNIT. One (1) or more rooms designed, occupied, or intended for occupancy as a separate living quarter, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

DWELLING, ZERO LOT LINE. A single-family dwelling unit located on a lot in such a manner that one (1) or more of the building's sides rest directly on a lot line.

EASEMENT. An ownership interest in real property entitling the holder thereof to use, but not full

possession, of that real property.

ELDERLY OR DISABLED PERSONS HOUSING, DEPENDENT. Dwellings used for long-term accommodation of persons who for any reason require on-going medical supervision or assistance with normal daily functions of living.

ELDERLY OR DISABLED PERSONS HOUSING, INDEPENDENT. Dwellings used for long-term accommodation of elderly or disabled persons who do not require regular medical supervision or assistance with normal daily functions of living.

ELDERLY OR DISABLED PERSONS HOUSING, SEMI-INDEPENDENT. Dwellings used for long-term accommodation of elderly or disabled persons who require periodic, but not daily, supervision or assistance with normal daily functions of living.

ENGINEER. An engineer licensed or registered by the State of Colorado.

EQUIPMENT. Rolling stock or movable personal property except that, for the purpose of this Title, it shall not include those items defined as heavy equipment.

ESCROW AGREEMENT. A legal instrument binding a developer and/or landowner to apply funds held in trust by a financial institution for the construction of required improvements of a development or other specified purpose.

EVIDENCE. Any map, documentary or testimonial material offered by a person in support of a specific claim, condition, or assertion.

EXOTIC ANIMALS. Those animals not defined as household pets or agricultural animals.

EXTRACTIVE USES. Surface and/or subsurface natural resources which may be extracted from the land. This includes exploratory drilling or mining, but excludes individual water well drilling.

FAMILY. Any number of persons living together on the premises as a single unit, but shall not include a group of more than four (4) individuals not related by blood, marriage or adoption. Notwithstanding the foregoing, a family shall be deemed to include four (4) or more persons not related by blood, marriage, adoption, or legal custody occupying a residential dwelling unit and living as a single household, if the occupants are handicapped persons as defined in Title VIII, Part 3 of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, or disabled persons as defined by ' 24-34-301, C.R.S. A household that includes persons identified above shall not be excluded from the necessary persons employed in the care and supervision of such handicapped or disabled persons.

FAMILY FOSTER HOME. A home which receives one (1) to four (4) children for regular full-time care. Provided, however, such limitation on the number of children shall not apply to adjudicated delinquent children.

FARM AND RANCH STRUCTURES AND USES. Those structures and uses devoted to the shelter and/or raising of livestock, poultry, feed, flowers, crops, field equipment or other agricultural items, with or without a dwelling unit. Also known as Agricultural structures and uses.

FARMERS MARKET. A structure or place where agricultural produce is brought for the purposes of retail sales. (Note: A farmers market differs from a produce stand in that there may be more than one (1) seller allowed per parcel of land and the structure from which produce is sold at a farmers market need not be portable or capable of being dismantled or removed from the site.)

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). The federal agency responsible for the National Flood Insurance Program which includes the Flood Insurance Rate Maps (FIRM) and Federal Flood Insurance Zones.

FEED LOT. An area which is used for custom feeding of livestock where charges are made to owners of livestock for yardage, feed and feed processing.

FENCE. A barrier constructed to mark a boundary or to prevent exit from or entry onto or into premises or property and/or to screen premises or property from view regardless of the material used, except vegetative materials, including walls but not retaining walls. A fence is considered a structure.

FILING. A portion of a development where a plat is created showing only the lots to be developed at the time of recording of such plat, plus a large remainder lot (as a single parcel) reserved for future filings.

FINAL PLAN. The last most detailed plan submitted to the city for approval as part of the subdivision or development review process.

FINAL PLAT. A survey map establishing real estate interests for recording with the County Clerk and Recorder prepared by a registered surveyor. This survey shall be marked on the ground so that streets, blocks, lots and other divisions thereof can be identified and drawn in accordance with the requirements of this Title.

FIRE FLOW SURVEY. A testing of fire hydrants to determine capacity by volume and pressure for fire fighting purposes in accordance with the requirements of the local Fire Marshal.

FLEA MARKETS. A flea market, swap shop, or similar activity by whatever name, where the use involves the setting up of two (2) or more booths, tables, platforms, racks, or similar display areas for the purpose of selling, buying, or trading merchandise, goods, materials, products or other items offered for sale outside an enclosed building. Flea markets do not include any of the following activities : garage sales, produce stands, or fund raising activities done by a non-profit organization.

FLOODPLAIN. An area adjacent to a watercourse which may be subject to flooding as a result of an increase in water flow beyond a normal high water mark.

FLOOR AREA. The total horizontal area of all floors in a building.

FLOOR AREA, GROSS. The total square footage of a building measured within the exterior face of exterior walls or the centerline of walls separating two (2) abutting buildings, including all floors of a multistory building whether finished or unfinished.

FLOOR AREA, NET. The square footage of the primary use area of a building including restrooms, hallways and stairwells, but not including normally unoccupied areas such as garages, storage rooms, furnace areas, or any space where floor-to-ceiling height is less than six (6) feet and six (6) inches.

FRONTAGE. The frontage of a parcel of land is considered that distance where a property line is common with a road right-of-way line. This does not include property lines common with an alley right-of-way.

GARAGE, PUBLIC. A structure, or portion thereof, attached or detached, and accessory to the principal building on a parcel of land for the storage of motor vehicles. A structure other than a private garage used for the housing of motor vehicles or where vehicles are stored or kept for remuneration, hire or sale. This garage shall not be considered an "Auto Repair Shop".

GARAGE (YARD) SALE. A sale of used clothing or household goods held at the seller's home.

GASOLINE SERVICE STATION. Buildings and/or surfaced area where automotive vehicles may be refueled and/or serviced. This service shall not include tire recapping, body painting and repair, or engine repair, which requires removal of the head or pan of the engine.

GEOLOGIC HAZARD AREA. An area identified by a qualified State or federal government agency as containing or being directly affected by a geologic hazard.

GEOTECHNICAL REPORTS. A report describing the engineering and construction properties of soils at a site based on drilling and sampling information and which provides recommendations for foundations,

utility lines, and pavement design within the development.

GOVERNING BODY. The Fruita City Council.

GRADE. The lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, the point between the building and a line five (5) feet from the building.

GRADE, FINISHED. The level of the soil after completion of site development.

GRADE, HIGHEST ADJACENT. The highest natural elevation of the ground surface prior to construction next to the proposed wall of a structure.

GRADE, NATURAL. The undisturbed ground level which may be determined by on-site evidence (vegetation, ground level on adjacent land, elevation of adjacent streets and roads, soil types and locations, etc.).

GREENHOUSE. See Nursery-Greenhouse.

GROSS ACREAGE. The area of a proposed development, including proposed dedications of easements, rights-of-way or other property rights, but excluding existing dedicated rights-of-way.

GROSS LEASABLE AREA. The total building area, expressed in square feet and designed for tenant occupancy and exclusive use, including any basements, mezzanines, or upper floors, as measured from exterior walls or the centerline of walls separating two (2) abutting buildings, but excluding any space where floor-to-ceiling height is less than six (6) feet and six (6) inches.

GROUND COVER. Rocks, mulch, grass or other plants and similar materials used to keep soil from being blown or washed away.

GROUND SUBSIDENCE. A process characterized by the downward displacement of surface material caused by natural phenomena; such as, removal of underground fluids, natural consolidation, or dissolution of underground minerals or by manmade phenomena such as underground mining.

GROUND WATER. Subsurface water found within and below the zone of continuous saturation.

GROUP HOMES, LARGE. State licensed group homes for the exclusive use of not more than forty-eight (48) developmentally disabled persons. "Developmentally disabled" as used in this Chapter means those persons having: cerebral palsy, multiple sclerosis, mental retardation, autism, and epilepsy.

Group home does not include a home for adults who have been charged or convicted and are under court supervision for any violent crime, but shall include homes for adjudicated delinquent children.

GROUP HOMES, SMALL. Owner occupied or non-profit group homes for the exclusive use of not more than eight (8) persons sixty (60) years of age or older per home. A group home for the aged, established herein, shall not be located within seven hundred fifty (750) feet of another such group home, unless otherwise provided for by the city. A non-profit group home is a group home for the aged, which is owned and operated by a person or organization which is exempt from income taxes pursuant to Section 39-22-112, C.R.S. An owner-occupied group home is a group home for the aged, which is owned and operated by an individual or individuals who actually reside at and maintain their primary place of residence in the group home. State licensed group homes for the exclusive use of mentally ill persons as that term is defined in Section 27-10-102, C.R.S. State licensed group home for eight (8) persons with mental illness is a residential use of property for zoning purposes, as defined in Section 31-23-301(4) C.R.S. A group home for persons with mental illness established herein shall not be located within seven hundred (700) feet of another such group home, unless otherwise provided for by the city. Group home does not include a home for adults who have been charged or convicted and are under court supervision for any violent crime, but shall include homes for adjudicated delinquent children.

GROUP HOMES, SPECIALIZED. A facility established and supervised by a licensed private child care agency or a public agency under the supervision of the State Division of Family and Children's Services to accommodate up to fourteen (14) children ranging in age from five (5) to twenty-one (21) years. These facilities are for children whose special needs can best be met through the medium of a small group. The supervising agency shall define the purpose of the group home, the kinds of children who can benefit from the home, and the number and age range of children whom it can serve.

GROUP RESIDENCE. Dormitory, sorority, fraternity, and/or lodging where three (3) or more individual rooms are occupied by residents who stay for periods of at least thirty (30) days.

HABITABLE FLOOR. Any floor usable for living purposes, which includes: working, sleeping, eating, cooking, recreation, or a combination thereof.

HARDSCAPE. Stone, brick, rock, sand, textured or shaped concrete, decorative walls and/or pedestrian facilities (i.e. benches, tables, play equipment, walking or bike paths).

HAZARD PRONE AREA. An area which has not yet been officially designated by the State or federal government as a geological hazard area but where historical evidence, climatological data, surface or subsurface geological, topographical, vegetative, or on other onsite naturally occurring factors indicate a relatively greater risk of property damage than exists on other parcels in the city.

HAZARDOUS SUBSTANCE. Any material that, by reason of its toxic, corrosive, caustic, abrasive or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

HEALTH CLUB. An establishment that provides facilities for exercise activities; such as, running, jogging, aerobics, weight lifting, court sports and swimming, as well as, locker rooms, showers, massage rooms, saunas and related accessory uses.

HEALTH DEPARTMENT. The Mesa County Health Department.

HEARING. See Public Hearing.

HEAVY EQUIPMENT. Any vehicle with a gross weight greater than fifteen thousand (15,000) pounds which is used primarily for commercial purposes, including but not limited to, trucks, earthmovers, backhoes and loaders, but not including recreational vehicles or farm equipment.

HEDGE VEGETATION. A plant which will grow, with regular trimming, to a height of four (4) to six (6) feet maximum.

HELIPAD. A facility without the logistical support provided by a Heliport (See Heliport) where helicopters take off and land. Helipads do not include facilities for maintenance, repair, fueling or storage of helicopters.

HELIPORT. An area used for the take-off and landing of helicopters and fuel facilities (whether fixed or mobile) or appurtenant areas for parking, maintenance, and repair of helicopters.

HIGH WATER MARK. The ordinary high water level or bank of a stream, river, lake or impoundment which, in the absence of evidence to the contrary, shall be presumed to be the edge of the vegetation growing along the shore.

HILLSIDE DISTURBANCE. Includes any and all areas of the building site disturbed during construction by grading or excavation and temporary or permanent construction for all buildings, parking areas, driveways, roads, sidewalks, and other areas of concrete, asphalt, or other construction materials.

HOME OCCUPATION. A commercial or business use within a dwelling unit by the residents thereof, which is incidental or secondary to the principle use of the dwelling for residential purposes.

HOMEOWNERS ASSOCIATION (HOA). A formally constituted non-profit association made up of the property owners and/or residents of a fixed area, which association is formed for the purpose of

assuming permanent responsibility for costs and upkeep of common areas, common elements, open space, irrigation system, and similar shared facilities or to enforce the covenants for a development whether or not there are shared facilities.

HOSPITAL. Any building used for overnight accommodation and medical care of human patients including sanitariums, but excluding clinics, rest homes and convalescent homes.

HOTEL. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including lodges and motels.

HUMAN SCALE. Buildings and spaces built in scale with each other and in scale with the human use of these buildings and spaces. Buildings scaled to human physical capabilities have steps, doorways, railings, work surfaces, seating, shelves, fixtures, walking distances, and other features that fit well to the average person.

ILLUMINATION, DIRECT. When applied to the lighting of signs, lighting by means of an unshielded light source (including neon tubing) which is effectively visible as a part of the sign, where light travels directly from the source to the viewer's eye.

ILLUMINATION, INDIRECT. When applied to the lighting of signs, lighting by means of a light source directed at a reflecting surface in a way that illuminates the sign from the front, or a light source that is primarily designed to illuminate the entire building facade upon which a sign is displayed. Indirect illumination does not include lighting which is primarily used for purposes other than sign illumination; e.g., parking lot lights, or lights inside a building that may silhouette a window sign, but are primarily installed to serve as inside illumination.

ILLUMINATION, INTERNAL. When applied to the lighting of signs, lighting by means of a light source that is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs that are themselves made of a translucent material.

IMPOUND LOT. A lot for the storage of vehicles which have been towed or otherwise moved to the lot by a towing carrier permitted to operate pursuant to Sections 40-13-101 et. seq. C.R.S., in which lot no vehicle dismantling or repair work occurs.

IMPROVEMENTS. Street pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, revegetation, water lines and mains, irrigation systems, storm sewers, wastewater collection lines and wastewater mains, irrigation systems, lateral wastewater lines, drain ways, gas lines, electric and telephone lines and appurtenances, street signs, street lights, lot pin monuments, range point boxes, cable television lines, fiber optic cables, recreational facilities, landscaping, fire hydrants, and traffic control devices

and any other item required for compliance with the regulations of this Title or the conditions of approval in a development.

Public Improvements shall be deemed to include water lines, water mains, fire hydrants, wastewater collection lines and mains, public recreational facilities, traffic control devices, public roads, curb, gutter, sidewalk, bike paths and other facilities conveyed to the city.

Private Improvements include all development improvements not conveyed to the city or other governmental entity; such as, natural gas facilities, telephone lines, electric lines, cable television system facilities, irrigation systems, drainage facilities and homeowner association common area facilities.

INTENSITY. The number of dwelling units per acre for residential development and gross floor area/level of activity and impacts of activity for non-residential development.

IRRIGATION OR IRRIGATED. Water used, whether or not potable, to sustain or grow landscapes or flora.

JUNK. Any waste, scrap, surplus, or discarded material, including but not limited to, metal, glass, paper, appliances not used for their intended purposes, junk vehicles, dismantled machinery, discarded construction materials, cardboard or fabric which is worn, deteriorated, and may or may not be used again in some form, but excluding animal wastes and human sewage.

JUNK VEHICLE. Any motor vehicle, trailer, or semi-trailer that is not operable in its existing condition because of damage or because parts necessary for operation are removed, damaged or deteriorated; or, is not capable of being lawfully driven on a public highway or street pursuant to the minimum standards set forth in Title 42 of the Colorado Revised Statutes. Any such motor vehicle, trailer, or semi-trailer shall be presumed to be a junk vehicle if no current Colorado license plates are displayed thereon, or if Colorado license plates have been invalid for more that sixty (60) days.

JUNK YARD. Any yard, lot, land, parcel, building or structure, or part thereof, used for storage, collection, processing, purchase, sale, salvage or disposal of used or scrap materials, equipment, vehicles or appliances. The term "Junk Yard" shall include "Wrecking Yard" and "Salvage Yard." Junk Yard does not include storage of vehicles used for agricultural purposes on a property used for agricultural purposes, or facilities qualifying as motor vehicle repair shops.

JURISDICTION. The sphere of responsibility of the Fruita City Council or a tax-assessing district.

KENNEL. A facility in which five (5) or more animals of the same species are housed, groomed, bred, boarded, and/or trained in return for compensation, and/or sold, and which may offer incidental medical treatment.

LAND DEVELOPMENT APPLICATION. A written request submitted for any approval, permit, or action required by this Land Use Code.

LANDLOCKED PARCEL. A parcel of land without access of record with the County Clerk and Recorder to a public right-of-way.

LANDSCAPE AREA. An area set aside from structures and parking which is developed with plantings, woods, stone, brick, rock, sand, textured or shaped concrete and/or pedestrian facilities (i.e. benches, tables, play facilities, paths, etc.).

LANDSLIDE. A mass movement where there is a distinct surface of rupture or zone of weakness, which separates the slide material from more stable underlying material.

LAND SURVEY PLAT. A plat which shows the information developed by a monumented land survey and includes all the information required by C.R.S. Section 38-51-106.

LAND USE. List of uses within categories enumerated in Section 17.07.060 of this Title for various uses of land in the city.

LAND USE CODE OR CODE. Unless otherwise specified, refers to this Title 17 of the Fruita Municipal Code.

LETTER OF CREDIT. A letter from a bank or other financial institution which guarantees that sufficient funds may be drawn on the financial institution to cover the cost of constructing the required improvements in a development.

LOADING SPACE. An off-street portion of a parcel for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel.

LODGE. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including hotels and motels.

LOT. A parcel of land as established by recorded plat.

LOT AREA, NET. The area of land enclosed within the property lines of the lot excluding adjacent streets and alleys.

LOT AREA, GROSS. The horizontal area within the exterior boundaries for the subject property,

including: any streets and required improvements, easements, reservations or dedications.

LOT, CORNER. A lot abutting upon two (2) or more intersecting streets.

LOT COVERAGE. Lot coverage is measured as a percentage of the total lot area covered by buildings. It is calculated by dividing the square footage of a building cover by the square footage of the lot. All covered patios, decks, porches and accessory buildings are included in the calculation. Roof eaves are not included.

LOT DEPTH. The horizontal distance measured from the front property line to the rear property line. If front and rear property lines are not parallel, the lot depth is the shortest distance between the front and rear property lines.

LOT, DOUBLE FRONTAGE (THROUGH LOT). A lot having frontage on two (2) non-intersecting streets. A double frontage lot shall be required to have one (1) front yard setback and one (1) rear yard setback.

LOT, FLAG. A lot having no frontage or access to a street or place except by a narrow strip of land.

LOT FRONTAGE. The distance for which a lot abuts on a street.

LOT, INTERIOR. A lot whose side property lines do not abut on any street.

LOT LINE. A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public or private space.

LOT LINE, FRONT. The property line dividing a lot frontage from a road right-of-way.

LOT, PENINSULA. A lot which is bordered on three (3) sides by a street. Peninsula lots are required to have two (2) front yard setbacks. The third street frontage shall be treated as a rear yard for setback purposes.

LOT WIDTH. The horizontal distance between side property lines measured parallel to the street, or to the tangent of a curved street property line. If side property lines are not parallel, the lot width is the shortest distance between the side property lines.

MACHINE SHOP. A structure used for containing machinery for the manufacture, modification or repair of metal goods and automotive equipment. This use shall be conducted entirely inside the building and does not include the dismantling of automotive equipment.

MAINTAIN. To use, to keep in existence.

MAJOR STREET PLAN. A plan or plans showing the location of rights-of-way, which will be developed in the future, which must be adhered to when planning new development or land uses. Plans for areas smaller than the entire city are still considered "major street plans." The city relies on the authority in Title 31, C.R.S., in addition to its other powers and authority relating to major street plans. Also known as the Fruita Area Street Classifications and Traffic Control Plan.

MANUFACTURED HOME. A factory-built single-family dwelling manufactured under the Federal Manufactured Home Construction and Safety Standards Act. The Act, commonly called the HUD Code, went into effect June 15, 1976.

MANUFACTURED OR MOBILE HOME PARK. A parcel of land used for the continuous accommodation of five (5) or more occupied manufactured homes or mobile homes and operated for the pecuniary benefit of the owner of the parcel of land, his agents, lessees, or assignees. A manufactured or mobile home park does not include manufactured or mobile home subdivisions. (See Chapter 17.25)

MANUFACTURED OR MOBILE HOME SUBDIVISION. A parcel or contiguous parcels of land subdivided into two (2) or more lots configured specifically for development of manufactured or mobile home housing. (See Chapter 17.25)

MASTER PLAN. Collectively, the City of Fruita Community Plan (2008); Fruita Greenway Business Park Plan (2001); City of Fruita Traffic Calming, Bicycle, Pedestrian Plan (1999); City of Fruita Stormwater Management Master Plan (1998); Mesa County Stormwater Management Plan; Fruita Kokopelli Greenway Plan (1996); The SH 340 Corridor Conceptual Development Plan (1994); and City of Fruita 201 Regional Wastewater Plan.

MEMBERSHIP CLUB. An association of persons, incorporated or unincorporated for a common purpose, but not including groups organized primarily to render a service carried on as a business.

MESA COUNTY ROAD AND BRIDGE STANDARDS. Mesa County Standard Specifications for Road and Bridge Construction (Adopted March 28, 1995), as amended, should be used in accordance with the Fruita Land Use Code.

MINI STORAGE WAREHOUSE. A structure containing separate, individual, and private storage spaces of varying sizes, leased or rented on individual leases for varying periods of time.

MOBILE HOME. A factory-built single-family dwelling constructed prior to the enactment of the HUD

Code on June 15, 1976. The term "mobile home" shall only include those units designed and intended for use as a permanent residence and shall not include office trailers, manufactured homes, travel trailers, camp trailers, or other recreational type vehicles designed for temporary occupancy.

MODULAR HOME. A factory-built single-family dwelling constructed in compliance local building code standards. Such dwellings are divided into multiple modules or sections which are manufactured in a remote facility and then delivered to the site. The modules are assembled into a single residential building using either a crane or trucks. Also known as factory-built homes.

MONUMENTED LAND SURVEY. Land survey in which monuments are either found or set pursuant to Sections 38-51-103, 38-51-104, and 38-51-105, C.R.S., to mark the boundaries of a specified parcel of land.

MOTEL. A structure providing short term lodging or boarding for guests for not more than thirty (30) consecutive days, including hotels and lodges.

MUDFLOW. Describes a flowing mass of predominantly fine-grained earth material possessing a high degree of fluidity during movement.

MULCH. Wood chips, bark, rock or other accepted material placed around plants to assist in moisture retention, weed prevention and erosion control.

NATURAL HAZARD. Describes a geologic, floodplain, or wildfire hazard, as identified by a State or federal agency.

NATURAL RESOURCE. A resource established through the ordinary course of nature.

NEIGHBORHOOD. An area of a community with characteristics that distinguishes it from other areas and that may include distinct ethnic or economic characteristics, housing types, schools, or boundaries defined by physical barriers; such as, major highways and railroads or natural features such as rivers.

NEIGHBORHOOD ASSOCIATION. Any group that has been recognized by the Community Development Department or has registered with the Community Development Department the boundaries of a particular area with which it is related and which the association represents.

NIGHT CLUB. A commercial establishment dispensing alcoholic beverages for consumption on the premises and in which music, dancing or live entertainment is conducted.

NO BUILD AREA. An area identified on a plat or other document indicating the areas where no

permanent buildings or structures are permitted including slabs and raised landscaping. Fencing may be permitted in some no build areas.

NODES. An identifiable grouping of uses subsidiary and dependent to a larger urban grouping of similar or related uses.

NONCONFORMING, LEGAL. A use, lot, structure, and/or development which was legally established prior to the adoption of this Code or any amendment thereto, which does not presently conform to the Code or its amendments.

NOTICE. The method used of informing persons of requests, hearings, actions taken and similar actions. The form and specifics of notice will vary depending on the application process and other factors.

NOTICE OF INCOMPLETENESS. A notice issued by the City Community Development Department to an applicant indicating that a land development application does not meet the minimum requirements for processing.

NURSERY-GREENHOUSE. A place where plants are grown, acquired and maintained for transplanting or sale. Sale or rental of small landscaping tools and supplies may be an accessory use.

NURSERY SCHOOL/PRESCHOOL/ DAY NURSERY. See Daycare Facility.

NURSING HOME. An establishment licensed by the State which maintains and operates continuous day and night facilities providing room and board, personal services, and medical care for compensation for two (2) or more persons not related to the operator of the home.

OFF-STREET PARKING SPACE. The space required to park one (1) motor vehicle, exclusive of access drives, and not on a public right-of-way.

OPEN MINING. The mining of natural mineral deposits by removing the overburden lying above such deposits and mining directly from the deposits exposed. The term includes, but is not limited to, such practices as open cut mining, open pit mining, strip mining, quarrying and dredging.

OPEN SPACE. Any property or portion thereof without any habitable structure or significant impervious surface and not designated and used for a specific purpose. Open space must also have all three (3) of the following characteristics: 1) land in a natural, near natural, agricultural, or other desirable condition or reserved for outdoor recreational activities; 2) permanent protection, and; 3) has attributes or features worthy of protection.

OPEN SPACE, COMMON. Open space within a development that is owned in common by a homeowners association and which is designed and intended for the common use or enjoyment of the residents or occupants of the development. Common open space does not include areas used for streets, alleys, driveways or off-street parking or loading areas. However, an area reserved for recreation activities such as swimming pools, tennis courts, playing fields, playgrounds and other recreation facilities may be included as common open space.

OUTDOOR EVENTS. Entertainment, educational and cultural events generally involving large numbers of people as spectators or participants in an outdoor setting.

OUTLOT. An area of land on a plat which will be used for a purpose other than a building site.

OUTSIDE STORAGE. Storage of materials, supplies, and merchandise that is not within an enclosed structure and in the same place for more than forty-eight (48) hours.

OVERBURDEN. All the earth and other materials which lie above natural mineral deposits or materials disturbed from their natural state in the process of mining and/or other development.

OVERFLOW PARKING. Any off street, ground level open area, used for the temporary storage of excess motor vehicles.

OVERLAY DISTRICT. A zoning district which has been superimposed over basic districts to address development constraints which require special attention and treatment and to alert developers to issues they need to address in preparing an application to develop.

OWNER OF RECORD. The fee simple owner of a parcel or parcels of land as indicated by the records of the Mesa County Clerk and Recorder.

PARCEL. An area of land defined by a legal description recorded with the Mesa County Clerk and Recorder.

PARK. Any public or private property kept, used and maintained for recreational, ornamental or aesthetic purposes typically with improvements such as irrigation, grass, trees and recreational structures such as playground equipment, picnic tables, etc.

PARK OPEN SPACE AND/OR PUBLIC SITE DEDICATION IMPACT FEE. A fee paid by the developer of a new development to the city for the purpose of acquisition and development of park or other municipal facilities. (See Chapter 17.19)

PARK, POCKET. A small park typically less than two acres in size.

PARKWAY STRIP. The undeveloped portion of right-of-way between the back of curb and the detached sidewalk. Also known as a Tree Lawn.

PATIO. An uncovered outdoor area which is flush with the ground and is usually paved and partially enclosed by the existing dwelling unit, walls, fencing or garage.

PEDESTRIAN PATH. A right-of-way or easement dedicated for public pedestrian access or a private path intended for pedestrian use.

PERFORMANCE GUARANTEE. Cash, letter of credit, escrow and disbursement agreement or bond used for securing the performance of certain obligations, such as, the completion of development improvements.

PERSON. The word "person" shall also include association, firm, partnership, or corporation.

PETITIONER. See Applicant.

PHARMACY. A building, or part of a building, used for the dispensing of medicines or medical supplies only.

PHASE. A portion of an approved site-specific development plan for which an approved plat or approved site plan often exists.

PLANNED UNIT DEVELOPMENT (PUD). A zone which allows for modification of the normal use, density, size or other zoning restrictions for the development of residential, business, commercial, industrial or other areas as part of a unified planned development for the entire property for purposes identified in Section 17.17.010 of this Title.

PLANNED UNIT DEVELOPMENT (PUD) GUIDE. Documents submitted that describe, with written and graphic materials, the provisions for a Planned Unit Development zone. The PUD Guide serves as the primary reference for the zoning standards of a PUD and describes the purposes of the PUD, its land uses, development standards, and construction phasing and other pertinent information.

PLANNING CLEARANCE. A permit issued by the City of Fruita that allows development to proceed, a use to be made or maintained or improvements, including structures, to be built or placed in accordance with this Title and with the requirements of the Mesa County Building Department.

PLANNING COMMISSION. The City of Fruita Planning Commission.

PLANT INVESTMENT FEE (TAP FEE). A charge applied for connecting to the city wastewater collection and treatment system. The fee is dedicated for the improvement and expansion of the city's wastewater treatment plant and lines.

PLAT. A map of surveyed and legally described land, which may have appropriate dedications and/or restrictions, which is an instrument for recording of real estate interests with the Mesa County Clerk and Recorder's office.

PLAYGROUND. Any property, public or private, used for and equipped with facilities for recreation especially by children. A playground may be incidental to school use but is not limited to school use or school facilities as defined herein.

PORCH. A roofed, enclosed or partially enclosed extension of a dwelling unit unheated and usually without windows.

PRE-CONSTRUCTION MEETING. A meeting held between the city staff and the developer/contractor prior to the commencement of construction of a building or development.

PRELIMINARY PLAN. The map or maps of a proposed development and supporting materials which permit the evaluation of the proposal prior to final detailed engineering and design.

PRINCIPAL STRUCTURE OR USE. The main or primary purpose for a structure or use on a parcel of land.

PRIVATE. Anything not owned or operated by a governmental entity, political subdivision, or tax-assessing district.

PRODUCE STAND. An open air stand for the selling of agricultural products. This stand may be portable for dismantling for moving in an off-season.

PROFESSIONAL OFFICE. An office for professionals such as physicians, dentists, lawyers, architects, engineers, artists, musicians, designers, teachers, accountants, and others who, through training, are qualified to perform services of a professional nature, and where no storage or sale of merchandise is permitted, except as a clearly accessory use.

PROPERTY. A lot, parcel, tract or other real estate.

PUBLIC. Any thing owned or operated by a governmental entity, political subdivision, or tax-assessing district.

PUBLIC BUILDING. Any building owned, leased or held by the United States of America, the State of Colorado, Mesa County, the City of Fruita, any school district or other agency or political subdivision, whose building is used for governmental purposes.

PUBLIC HEARING. A public meeting for which public notice has been given and an opportunity for public testimony is provided. Usually, a public hearing will be conducted in accordance with Chapter 2.60 of the Fruita Municipal Code.

PUBLIC MEETING. A meeting of the Board of Adjustment, Planning Commission, or City Council, which the public may attend, as further defined by State law.

PUBLIC NOTICE. Notice to the public of an official public hearing. This notice shall be published as set forth in Section 17.01.130 of this Title.

PUBLIC SITE. Property which is owned by a public entity or is open to the public.

RADIOACTIVITY. A condition related to various types of radiation emitted by radioactive minerals that occur in deposits of rocks, soils or water.

RECAPTURE AGREEMENT. An agreement between a developer and the city or other property owners which sets forth the terms and conditions under which part of the costs of an improvement are recoverable from a subsequent development using the improvement.

RECEIVING AREA. City zones that allow a density bonus through the Transfer Development Right/Credit Program: Rural Estate (RE); Rural Residential (RR); South Fruita Residential (SFR), and; Community Mixed Use (CMU).

RECEIVING SITE. A property located within the receiving area and participating in the Transferrable Development Rights/Credits (TCR/C) program.

RECLAMATION. Rehabilitation of plant cover, soil stability, water resources, and other measures appropriate to the subsequent beneficial use of land.

RECORDED. Document(s) of record being placed in the coded files and books of the Mesa County Clerk and Recorder's office.

RECREATIONAL VEHICLE. A vehicle that is: 1)built on a single chassis; 2) four hundred (400) square feet or less when measured at the largest horizontal projection; 3)designed to be self propelled or permanently towable by a light duty truck; and 4)designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping travel or seasonal use.

Recreational vehicles also shall also include the following: truck campers, all watercraft subject to registration by the State of Colorado, all off-road motorcycles, mini-bikes, all-terrain vehicles (ATVs), go-carts and similar vehicles with motor power that are prohibited from operating on a public street by the State of Colorado.

RECREATIONAL VEHICLE PARK. Any lot or parcel developed to provide spaces and facilities for the temporary residential use of two (2) or more recreational vehicles. (See Chapter 17.27)

RECREATIONAL VEHICLE RESORT. An integrated development where recreational vehicles are used for temporary residential purposes in conjunction with recreational and social centers designed to provide a significant portion of the recreational and social needs of the occupants of the resort. (See Chapter 17.27)

RECREATIONAL VEHICLE SPACE. A parcel of land within an approved recreational vehicle park, shown in the records of the City of Fruita Community Development Department, and which was designed and intended for the accommodation of one (1) recreational vehicle.

RECYCLING CENTER/FACILITY. A structure or facility in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

RECYCLING COLLECTION POINT. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources with no processing of such items being allowed. This facility would generally be located on a shopping center parking lot or in other public/quasi-public areas, such as churches and schools.

REGULATION. A specific regulatory section of the Fruita Municipal Code or other law, or promulgated pursuant thereto.

REHABILITATIONS. Restoration or remodeling of an existing structure.

RELEASE. A document signifying the satisfactory completion of a subdivision or development improvement. Releases are typically approved by the City Council at a public hearing.

RENTAL, HEAVY EQUIPMENT. The use of any building, land area or other premises for the rental of

heavy equipment, large trucks, trailers, or other similar items.

RENTAL, HOME ORIENTED. A business providing items for rent generally found or used in and around the home.

REQUEST. A writing seeking an approval required under this Title; this is the same as an application.

RESIDENTIAL. A land use which is primarily designed as a living and dwelling unit.

RESIDENTIAL CARE FACILITIES. A home for no more than eight (8) developmentally disabled residents as defined by the State Department of Public Health and Environment.

RESIDENTIAL DENSITY-MAXIMUM. Maximum residential density means the number calculated by dividing the total number of dwelling units or residential lots, by the gross acreage expressed in square feet or acres of the development property. Gross land area includes all of the parcel or property at the time a development application is filed. The "gross residential density" is calculated the same as maximum residential density.

RESIDENTIAL DENSITY-MINIMUM. This calculation shall apply to the term "net minimum residential density" as used in this Title. Minimum residential density means the number calculated by dividing the total number of dwelling units or residential lots by the new developable land area of the development parcel.

RESIDENTIAL RECEIVING HOMES. Consists of homes for children up to eighteen (18) years not related to head of house who are awaiting disposition to foster homes or other accommodations. These homes are not to exceed ten (10) such persons. Such homes must be licensed as required by the State of Colorado. These homes must also meet safety standards as set forth by the Fire Department and the Mesa County Building Department. Sanitary facilities must meet standards of the Mesa County Health Department.

RESORT CABIN. A building accommodating individuals on a term occupancy basis located in areas providing recreational environmental opportunities in rural areas.

RESTAURANT. An establishment serving food and beverage.

RE-SUBDIVISION PLAT. The changing of the size, shape or location of at least one existing parcel within a subdivision plat previously recorded with the County Clerk and Recorder. Also known as a replat.

RETAINING WALL. A manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or terracing a parcel or site. If a retaining wall exceeds four (4) feet on any part of the property, it requires a Planning Clearance.

REVOCABLE LICENSE OR PERMIT. A permit issued by the City Council, allowing private development within a public right-of-way or property, which may be revoked, with or without cause, at the discretion of the City Council.

RIDGE LINE. The highest elevation of a mountain chain or line of hills or the intersection of two roof surfaces forming the highest horizontal line of the roof.

RIGHT-OF-WAY, PUBLIC. A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation in fee simple and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, waterline, wastewater line, storm sewer, and other similar uses; generally, the right of one to pass over the property of another.

ROADWAY. That portion of the street within a right-of-way and/or easement.

ROCK FALL. The rapid freefalling, bounding, sliding, or rolling of large mass of rock(s).

ROOF LINE. The highest edge of the roof or the top of parapet, whichever establishes the top line of the structure silhouette.

SATELLITE DISH. An antenna, consisting of radiation element(s) that transmit or receive radiation signals, that is supported by a structure, with or without a reflective component, to the radiating dish, usually circular in shape with parabolic curve design constructed of solid or open mesh surface and intended for transmitting or receiving television, radio, microwave signals or other electromagnetic waves to or from earth satellites.

SCHOOL DISTRICT. The Mesa County Valley School District No. 51, a school district duly organized under the laws of the State of Colorado, which includes within its boundaries the City of Fruita.

SCREENING. Shielding, concealing and effectively hiding from view of a person standing at ground level on an abutting site, or outside the area of the feature so screened by a wall, fence, hedge, berm or any combination of these methods, or any similar architectural or landscaped feature, such as a landscape perimeter strip.

SECURED/SECURITY. Cash, escrow fund, letter of credit, bond or other readily available source of money securing the performance of certain obligations.

SEISMIC EFFECTS. Direct and indirect effects caused by a natural earthquake or a manmade phenomenon.

SELF SERVICE STORAGE FACILITY. A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and household goods or contractor's supplies. Also known as a mini warehouse.

SELF SERVICE STORAGE YARD. A secured area for the storage of recreational vehicles, trailers, campers, etc. Not for storage of uncovered business materials, household goods, contractor's supplies or other loose unsecured items.

SENDING AREA. An area designated for limited development or to remain undeveloped, such as prime agricultural land, the Cooperative Planning Area (Buffer Zone) and/or an area with significant natural features as shown on the map in the Sending Areas section of the Transfer Development Rights/Credits Manual.

SENDING SITE. An eligible property located within a sending area and participating in the Transferrable Development Rights/Credits (TDR/C) program.

SERVICE LINES. Electric, gas, communication, cable television, water, wastewater, irrigation and drainage lines providing local distribution, transmission or collection service.

SERVICE YARD AND ENTRANCE. An area and entrance to a structure which is used for pickup and delivery of goods and services especially in conjunction with retail and wholesale outlets. These areas are usually provided to accommodate commercial trucks and not for general customer use.

SETBACK. The distance that structures are required to be placed from the property lines of a parcel of land or from other established reference points.

SHRUB. A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground; may be deciduous or evergreen.

SIGN. Any device, fixture, placard, structure, or part thereof, that uses any color, form, graphic, illumination, symbol, or writing to advertise, announce or identify the purpose of, a person or entity, or to communicate information of any kind to the public.

SIGN, FLASHING. A sign, which contains an intermittent or flashing light source or a sign which includes the illusion of intermittent or flashing light by means of animation or an externally mounted light source.

SIGN, FREE STANDING. A sign structure which is supported by one or more columns, uprights, poles or braces extended from the ground or which is erected on the ground; provided that no part of the structure is attached to any building.

SIGN, IDENTIFICATION. A sign which displays the address, name and/or use of the parcel upon which the sign is located.

SIGN, INSTITUTIONAL. A sign setting forth the name of a public, charitable, educational, or religious institution.

SIGN, INTEGRAL. Names of building, dates of erection, monumental citation, commemorative tablets and the like which are carved into stone, concrete or similar material or made of bronze, aluminum, or other permanent type construction and made an integral part of the structure.

SIGNS, MENU. Signs at restaurants which are not designed to be read from the public right-of-way and are not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.

SIGN, MONUMENT. A freestanding sign continuously attached to the ground; the opposite of a pole sign.

SIGN, PERMANENT. A sign which is securely attached to the ground or a structure so that it cannot readily be moved.

SIGN, POLE. A freestanding sign erected above the ground on a pole.

SIGN, PORTABLE. A sign that is not permanent, affixed to a building, structure, or the ground. A sign that is mounted or painted or erected upon a vehicle, van, truck, automobile, bus, railroad car or other vehicle shall be considered a portable sign.

SIGN, PROJECTING. A sign attached to a structure wall and extending outward from the wall more than twelve (12) inches.

SIGN, ROOF TOP. A sign that is mounted on the roof of a building or that is wholly dependent upon a building for support and that projects above the top walk or edge of a building with a flat roof, the eave line of a building with gambrel, gable or hip roof, or the deck line of a building with a mansard roof.

SIGN, TEMPORARY. A sign which is not permanently affixed to the ground or a structure and can be

readily removed from its location.

SIGN, WALL. A sign attached to, or erected against, the wall of a structure which has the sign face in a plane parallel to the plane of the wall and which does not extend more than twelve (12) inches from the building face.

SIGN, WIND DRIVEN. A sign consisting of a series of banners, flags, pennants, ribbons, spinners, streamers, captive balloons, or other objects or material fastened in a manner, which will move when subjected to pressure by wind or breeze.

SIGN, WINDOW. A sign that is painted on, applied to or attached to a window or that can be read through the window from the public right-of-way.

SKETCH PLAN. Map(s) of a proposed subdivision and supporting documents submitted to evaluate concept, feasibility and design characteristics at an early stage in the planning of a subdivision.

SMALL HOUSING TYPES. Dwelling units (including multi-family dwellings) that individually contain less than 1,750 square feet in floor area including garages or covered parking areas.

STICK BUILT CONSTRUCTION. A type of construction wherein a complete structure is assembled on a building site from individual pieces of common building materials such as lumber, sheathing, piping, etc. The use of prefabricated sub assemblies such as structural floor, wall, or roof panels, trusses, precast concrete foundation assemblies, and/or insulated concrete form (ICF) construction meet the definition of stick built for the purposes of this Title.

STORY. A horizontal division of a building constituting the area between two adjacent levels designed and intended to be a habitable floor.

STREET, ARTERIAL. Streets carrying general traffic within the city and providing communication with surrounding territory and which may be part of the federal-aid and state highway connecting links within the city.

STREET, COLLECTOR. Streets penetrating neighborhoods and routes serving intra-city rather than statewide travel. A minor amount of through traffic may be carried on a collector street, but the system primarily carries local traffic. Average trip lengths and travel speeds are less than on arterial streets.

STREET FURNITURE. Furniture designed for and permitted in the public right-of-way; e.g. benches, bus shelters.

STREET, LOCAL. Streets within the city open to public travel and which is not a part of a federal-aid connecting link, state highway, or a street designated as a collector or arterial street.

STREET, PRIVATE. Streets not accepted into the City of Fruita street system for maintenance, but maintained by a private homeowners association or private landowners.

STREET, PUBLIC. Streets built to the City of Fruita standards and accepted into the City of Fruita street system for maintenance.

STREETSCAPE. The landscaping and other man-made objects located within the public right-of-way which add variety and are placed for aesthetic purposes as well as functional, pedestrian guidance and traffic control.

STRUCTURE. Anything constructed or erected which requires location on or in the ground or is attached to something having a location on the ground. Structures do not include ditches and their appurtenances, poles, lines, cables, or transmission or distribution facilities of public utilities, freestanding mailboxes, on-grade slabs, walks, driveways, or landscaping materials. A fence is a structure.

SUBDIVISION. The division of a lot, tract or parcel of land into two or more lots, tracts parcels or other divisions of land for sale or development.

SUBDIVISION, PLATTED. A group of lots, tracts, or parcels of land created by recording a map which meets the requirements of Section 38-51-106, C.R.S., and which shows the boundaries of such lots, tracts, or parcels and the original parcel from which they are created.

SUBDIVISION IMPROVEMENTS AGREEMENT (SIA). An agreement between the city and a property owner and developer which provides for the construction, installation and development of improvements associated with a subdivision and includes a performance guarantee and various exactions required by the city, as further described in Chapter 17.21 of this Title.

SUITABLE SCHOOL LANDS. Tracts of vacant land lying within areas designated by the School District for school sites or other school facilities and having characteristics rendering such tracts suitable or desirable for development as school sites or facilities, including but not limited to, appropriate size and dimensions, lack of geologic, environmental or topographic barriers to development, reasonable access to utilities, roads and other necessary facilities, including irrigation water, compatible zoning, and proximity to other schools, school facilities and residential areas.

SURVEYOR. A land surveyor registered by the State of Colorado.

SWMM. Stormwater Management Master Plan as adopted by the city.

TELECOMMUNICATION FACILITIES. Cables, wires, lines, wave guides, antennas, other equipment and facilities and any other equipment or facilities associated with the transmission or reception of electromagnetic waves and/or communications which are located or as a part of a tower or antenna support structure.

TELECOMMUNICATIONS, TOWER. A self-supporting latticed, guyed or monopole structure constructed from grade which supports a telecommunications facility. The term tower shall not include amateur radio operators' equipment, as licensed by the FCC.

TEMPORARY USE OR STRUCTURE. Any use or structure placed on a parcel of land for a non-permanent use of limited duration.

TOWNHOUSE. Refers to a single-family dwelling unit that is connected to a similar single-family dwelling unit by one (1) or two (2) common sidewalls. An owner of a townhouse also owns the land area on which the foundation of the townhouse is constructed and may also own portions of the abutting land not occupied by other dwelling units.

TRACT. A lot, piece or parcel of land, of greater or less size, the term not importing, in itself, any precise dimension, though term generally refers to a large piece of land.

TRAFFIC VOLUME. As calculated, according to national or other city approved objective standards, such as the Institute of Traffic Engineers publication. If an applicant provides proof that actual traffic volume will be different, the city may vary from the approved standards.

TRAFFIC IMPACT STUDY. A study prepared by a professional traffic engineer which calculates the relative effect of a proposed development on the local, collector and/or arterial road system.

TRAIL, PUBLIC. Any off-street pathway designed for public recreation or pedestrian and bicycle travel.

TRANSFERABLE DEVELOPMENT RIGHTS/CREDITS (TDR/C). A development rights/credits which has been severed or extinguished from a sending site by deed restriction, conservation easement, or other legal instrument authorized by law and the recording of that instrument, and which is transferable to a receiving site within a specified receiving area, as further described in Chapter 17.09.

TRANSFER DEVELOPMENT RIGHTS/CREDITS CERTIFICATE. A negotiable certificate issued by Mesa County evidencing the legal right of the holder thereof to use such certificate to obtain bonus density on a receiving site subject to, and in accordance, with this Land Use Code.

TRANSFER RATIO. The value of one (1) TDR/C relative to its use on a receiving site.

TRANSIENT HOUSING. Housing or accommodations which are typically occupied by residents for periods of thirty (30) days or less, including, but not limited to hotels, motels, and lodges.

TRANSMISSION LINES. Electric lines (115 KW and over) and appurtenant facilities which emanate from a power plant or a substation and terminate at a substation; or pipelines/conveyors (ten (10) inches diameter or larger) and appurtenant facilities for transporting natural resources, chemicals, petroleum derivatives, or waste substances.

TRAVEL TRAILER. A vehicle or portable unit mounted on its own chassis and wheels which does not exceed eight (8) feet in width and/or forty (40) feet in length, is drawn by a motor vehicle, and provides temporary living quarters for recreational, camping or travel use.

TRUCK CAMPER. A portable unit consisting of a roof, floor and sides designed to be loaded onto, and unloaded from, the bed of a pickup truck, and provides temporary living quarters for recreational, camping or travel use.

TRUCK PARKING AREA. An area for the temporary parking of trucks which are often left with motors running and/or refrigerator unit motors operating.

UNDERGROUND PRESSURIZED IRRIGATION SYSTEM. A watering system for landscaped areas, consisting of underground, pressurized pipes connected to sprinkler heads, bubbler heads, or drip systems.

UNOCCUPIED STRUCTURE. A structure which is vacant.

UNSUITABLE OR POTENTIALLY UNSTABLE SLOPE. An area susceptible to or impeded by rapid erosion, a landslide, a mudflow, a rockfall or accelerated creep of slope forming materials.

USE. The purpose for which land or a structure is designed, arranged, intended, or occupied.

USE, PUBLIC. A use which is owned by a public entity or is open to the public

UTILITIES. Services and facilities provided by public agencies and private companies; such as, electrical and natural gas service, telephone service, water (domestic and irrigation), wastewater disposal, drainage systems, solid waste disposal, etc.

VACATION OF EASEMENT. A formal abandonment of an easement by the City Council, or other owner.

VACATION OF RIGHT-OF-WAY. A formal abandonment of a public right-of-way by the City Council or Board of County Commissioners in accordance with State law.

VARIANCE. An exception from the numerical requirements of this Title excluding the numerical standards contained in Chapter 11. Use variances are not permitted.

VERTICAL CONTROL. All drawings with grades shall have at least one benchmark described. If public facilities besides curb, gutter, and sidewalk, or driveways are proposed, then a permanent benchmark must be referenced, with the elevation based upon U.S.G.S. datum. If the existing benchmark is far enough removed from the site that it reasonably cannot be shown on the plan, then the description of the benchmark location shall not only include aliquot corner description, but street reference. Also, all proposed benchmarks must be shown.

WALL. Refers to the vertical exterior surface of a building; the vertical interior surfaces that divide a building's space into rooms.

WASTEWATER COLLECTOR (OR MAIN). A wastewater line located within public right-of-way or easement generally eight (8) inches in diameter or larger which receives wastewater flows from wastewater laterals and transports these flows to the treatment facility.

WASTEWATER LATERAL. A wastewater line which discharges into a wastewater collection line or main.

WASTEWATER SYSTEM. A unified collection and treatment system operated by the city for the disposal of sanitary wastewater.

WATERCOURSE. An area in which water flows regularly or periodically.

WILDFIRE HAZARD. An area containing or directly affected by a hazard from uncontrolled fire in a natural area.

WILDLIFE HABITAT RESOURCE AREA. A geographical area containing those elements of food, water, cover, space and general welfare in combination and quantities adequate to support a species for at least a portion of a year. An area need not be occupied by a species in order to be considered a habitat for that species; habitat may include those areas, which were historically occupied and are still suitable for occupancy, are presently occupied, or are potentially suitable though not historically occupied. Significant

wildlife habitats are those areas containing, or having significant impact upon, those wildlife habitats in which the wildlife species could be endangered by development, and includes those essential elements of habitat, which, if altered or eliminated, would impair or destroy the area's capability to sustain a wildlife species.

WOONERF. A street or group of streets designed primarily to meet the interests of pedestrians and cyclists rather than motorists, opening up the street for social use.

WORKING DAY. A business day; those days the Community Development Department is open to the public for business; holidays, Saturdays, and Sundays are not working days.

XERISCAPE. Landscape methods, which conserve water through the use of drought-tolerant plants and specialized planting and irrigation techniques.

YARD. An existing or required open space on a parcel . A yard is open, unoccupied and unobstructed from the ground to the sky, except as otherwise provided in this Title.

YARD, FRONT. A yard extending across the full width and depth of the lot between a front road right-of-way, front lot line or access easement line, and the nearest line or point of the building.

YARD, FRONT SETBACK. The minimum horizontal distance required between any building and the front property line.

YARD, REAR. A yard extending across the full width and depth of the lot between the rear lot line and the nearest line or point of the building.

YARD, REAR SETBACK. The minimum horizontal distance required between any building and the rear property line.

YARD, SIDE. A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

YARD, SIDE SETBACK. The minimum horizontal distance required between any building and the side property line.

ZERO LOT LINE. The location of a building on a lot in such a manner that one (1) or more of the buildings sides rests directly on a lot line.

ZONE. A particular set of rules and regulations, applied to specific areas identified on the Official Zoning Map, which limits the types and intensity of uses.

Chapter 17.04
LAND USE CATEGORIES

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INTRODUCTION TO LAND USE CATEGORIES

17.04.010 PURPOSE.

This Chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics, as follows:

- A. Categorization.** Uses are assigned to the category whose description most closely describes the nature of the primary use. The "Characteristics" subsection of each use category describes the characteristics of each use category. Developments may have more than one primary use. Developments may also have one or more accessory uses. It is the intent of this Chapter to group similar or compatible land uses into specific land use categories.

- B. Interpretation.** When a use's category is not clearly identifiable, the Community Development Director may determine the applicable use category or refer the question to the Planning Commission for a public hearing and determination following the procedure under Section 17.07.060. The following is considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:
 - 1. The description of the activity(ies) in relationship to the function and characteristics of each use category;
 - 2. The building or structure type associated with each use category, and the relative amount of site or floor space and equipment devoted to the activity;
 - 3. Relative amounts of sales from each activity;
 - 4. The customer type for each activity;
 - 5. The relative number of employees in each activity;
 - 6. Hours of operation;
 - 7. Building and site arrangement;

8. Vehicles used with the activity;
9. The relative number of vehicle trips generated by the activity;
10. Signs;
11. How the use advertises itself; and
12. Whether the activity would function independently of the other activities on the site.

C. Developments with multiple primary uses. When all of the primary uses of a development fall within one use category, then the development is assigned to that use category. For example, a development that contains a retail bakery and a cafe would be classified in the Retail Sales and Service category because all the primary uses are in that category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

D. Accessory Uses. Accessory uses are allowed by right, in conjunction with, the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use. Typical accessory uses are listed as examples with the categories.

E. Use of examples. The "Examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Retail Sales and Service category rather than the Wholesale Sales category. This is because the actual activity on the site matches the description of the Retail Sales and Service category. If the use cannot be located within one of the categories provided by this Section, the city may at its discretion refer to appropriate outside sources, such as the Land-Based Classification Standards (LBCS) of the American Planning Association or the North American Industry Classification System (NAICS); however, the City of Fruita is not obligated to consider these sources and is not liable for any damages resulting from such use, or resulting from future amendments to the LBCS or NAICS.

RESIDENTIAL USE CATEGORIES

17.04.100 GROUP LIVING.

- A. Characteristics.** Group Living is characterized by the residential occupancy of a structure by a group of people who do not meet the definition of Household Living. The size or composition of the group is different than that of a Household. Tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Generally, Group Living structures typically have a common eating area for residents, though individual units may have a kitchen. The residents may or may not receive any combination of care, training, or treatment, as long as they also reside at the site.
- B. Accessory Uses.** Accessory uses commonly found are recreational facilities, parking of autos for the occupants and staff, and parking of vehicles for the facility.
- C. Examples.** Examples include dormitories; fraternities and sororities; monasteries and convents; nursing and convalescent homes; assisted living and similar retirement facilities where some level of daily care is provided by on-site staff; some group homes for the physically disabled, mentally retarded, or emotionally disturbed; some residential programs for drug and alcohol treatment; and alternative or post incarceration facilities. Group Living includes Large and Small Group Homes, Group Residence, and Residential Receiving Homes.
- D. Exceptions.**
1. Lodging where tenancy may be arranged for periods less than one (1) month is considered a hotel or motel use (or hospital) and is classified in the Retail Sales and Service or other category. However, in certain situations, lodging where tenancy may be arranged for periods less than one (1) month may be classified as a Community Service use such as publicly assisted, short term housing.
 2. Lodging where the residents meet the definition of Household, and where tenancy is arranged on a month-to-month basis, or for a longer period is classified as Household Living.
 3. Facilities for people who are under judicial detainment and are under the supervision of sworn officers are included in the Detention Facilities category.
 4. Bed and Breakfast.

17.04.110 HOUSEHOLD LIVING.

- A. Characteristics.** Household Living is characterized by the residential occupancy of a dwelling unit by a household. Where units are rented, tenancy is arranged on a month-to-month basis, or for a longer period. Uses where tenancy may be arranged for a shorter period are not considered residential. They are considered to be a form of transient lodging (see the Retail Sales and Service and Community Service categories). Apartment complexes that have accessory services such as food service, dining rooms, and housekeeping are included as Household Living. Single Room Occupancy (SRO) housing, that do not have totally self-contained dwelling units (i.e., with kitchen and wash room facilities) are also included if at least two thirds of the units are rented on a monthly basis. SROs may have a common food preparation area, but meals are prepared individually by the residents. In addition, temporary medical hardship dwellings, and residential homes as defined by the State of Colorado, are included in the Household Living category.
- B. Accessory Uses.** Accessory uses commonly found are private yards and gardens, private recreational activities, raising of pets, hobbies, home occupations (subject to Code requirements), and parking of the occupants' vehicles, but not including residential occupancy of any vehicle. Home occupations, accessory dwelling units, and bed and breakfast facilities are accessory uses that are subject to additional regulations.
- C. Examples.** Uses include living in houses, duplexes, apartments, condominiums, retirement center apartments (not otherwise categorized as Group Living), manufactured housing, and other structures with self-contained and permitted dwelling units. Examples also include living in Single Room Occupancy housing, if the provisions are met regarding length of stay and separate meal preparation.
- D. Exceptions .**
1. For purposes of this code, a recreational vehicle is not considered a dwelling.
 2. Lodging in a dwelling unit or Single Room Occupancy Hotel (SRO) where less than two thirds of the units are rented on a monthly basis or longer is considered a hotel or motel use and is classified in the Retail Sales and Service category. SROs which include common dining are classified as Group Living.

- 3 Guest houses that contain kitchen facilities are not accessory to Household Living uses; such houses may be allowed as Accessory Dwellings or as part of a multifamily development, subject to applicable code requirements.
- 4 In certain situations, lodging where tenancy may be arranged for periods less than one (1) month may be classified as a Community Service use, such as publicly assisted, short term housing or mass shelter in the event of an emergency declared by a government agency.

COMMERCIAL USE CATEGORIES

17.04.200 COMMERCIAL OUTDOOR RECREATION.

- A. Characteristics.** Commercial Outdoor Recreation uses are large, generally commercial uses that provide continuous or temporary recreation or entertainment oriented activities. They generally take place outdoors. They may take place in a number of structures, which are arranged together in an outdoor setting. (Temporary uses are subject to Section 17.07. 070L.)
- B. Accessory Uses.** Accessory uses may include concessions, restaurants, parking, caretaker's quarters, and maintenance facilities.
- C. Examples.** Examples include amusement parks, theme parks, golf driving ranges, farmer's market, flea market, arts and crafts fair, miniature golf facilities, and similar commercial venues.
- D. Exceptions.**
 1. Golf courses, including up to two thousand (2,000) square feet of accessory commercial floor area (e.g., clubhouse, restaurant, equipment sales and rental) are classified as Parks and Open Space. Golf courses with a commercial component exceeding two thousand (2,000) square feet commercial floor area are considered Retail Sales and Service.
 2. Uses that draw large numbers of people to periodic events, rather than on a continuous basis, are classified as Major Entertainment Event.

17.04.210 COMMERCIAL PARKING.

- A. **Characteristics.** Commercial Parking facilities provide parking that is not accessory to a specific use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as a Commercial Parking facility.
- B. **Accessory Uses.** In a parking structure only, accessory uses may include car washing, and vehicle repair activities.
- C. **Examples.** Examples include short- and long-term fee parking facilities, commercial district shared parking lots, commercial shuttle parking, and mixed parking lots (partially for a specific use, partly for rent to others).
- D. **Exceptions.**
 - 1. Parking facilities that are accessory to a use, but which charge the public to park for occasional events nearby, are not considered Commercial Parking facilities.
 - 2. Parking facilities that are accessory to a primary use are not considered Commercial Parking uses, even if the operator leases the facility to the primary use or charges a fee to the individuals who park in the facility.

17.04.220 QUICK VEHICLE SERVICING.

- A. **Characteristics.** Quick Vehicle Servicing uses provide direct services for motor vehicles where the driver generally waits in the car before and while the service is performed. The development will include a drive-through facility, the area where the service is performed Vehicle fueling stations are always classified as a primary use (Quick Vehicle Servicing), rather than an accessory use, even when the fueling component comprises less land than other uses of the site.
- B. **Accessory Uses.** Accessory uses may include auto repair and tire sales, mini mart or similar convenience retail uses.
- C. **Examples.** Examples include full-serve and mini-serve gas stations, unattended card key stations, car washes, and quick lubrication services where service is typically provided in less than one hour.
- D. **Exceptions.**

1. Refueling facilities for the vehicles that belong to a specific use (fleet vehicles) which are on the site where the vehicles are kept, are accessory to the use.

17.04.230 MAJOR ENTERTAINMENT EVENT.

- A. Characteristics.** Major Entertainment Event uses are characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.
- B. Accessory Uses.** Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.
- C. Examples.** Examples include sports arenas, race tracks (auto, horse, dog, etc.), auditoriums, exhibition and meeting areas, concert halls, outdoor amphitheaters, and fairgrounds.
- D. Exceptions.**
 1. Exhibition and meeting areas with less than ten thousand (10,000) square feet of total event area are classified as Retail Sales and Service.
 2. Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Retail Sales and Service category.
 3. Theaters, including drive-in theaters, are classified as Recreation and Entertainment.

17.04.240 VOCATIONAL AND TRADE SCHOOLS.

- A. Characteristics.** Vocational and Trade Schools uses are characterized by activities conducted in an office setting and generally focusing on serving students with vocational education, or supplemental academic education, enrichment, and/or tutoring.
- B. Accessory Uses.** Accessory uses may include incidental retail (e.g., sale of instructional materials), parking, or other amenities primarily for the use of customers and employees.

- C. **Examples.** Examples include vocational schools, tutoring centers, computer classes, after school learning centers for grades K-12, and arts and crafts classes.

17.04.250 OFFICE.

- A. **Characteristics.** Office uses are characterized by activities conducted in an office setting and generally focusing on business, government, professional, medical, or financial services.
- B. **Accessory Uses.** Accessory uses may include cafeterias, health facilities, parking, or other amenities primarily for the use of employees in the firm or building.
- C. **Examples.** Examples include professional services such as lawyers, accountants, engineers, or architects; financial businesses such as lenders, brokerage houses, bank headquarters, or real estate agents; data processing; sales offices; government offices and public utility offices; TV and radio studios; medical and dental clinics, and medical and dental labs.
- D. **Exceptions.**
1. Offices that are part of and are located with a firm in another category may be considered accessory to the firm's primary activity. Headquarters offices, when in conjunction with or adjacent to a primary use in another category, are considered part of the other category.
 2. Contractors and others who perform construction or similar services off-site are included in the Office category if equipment and materials are not stored on the site and fabrication, services, or similar work is not carried on at the site.
 3. Governmental offices may be classified as Office, Community Service, or other use based on the use's predominate function.

17.04.260 RETAIL SALES AND SERVICE.

- A. **Characteristics.** Retail Sales and Service firms are involved in the sale, lease or rent of new or used products to the general public. They may also provide personal services or entertainment, or provide product repair or services for consumer and business goods.
- B. **Accessory Uses.** Accessory uses may include offices, storage of goods, manufacture or repackaging of goods for on-site sale, and parking, subject to applicable Code requirements.

C. Examples. Examples include uses from the four subgroups listed below:

1. Sales-oriented: Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationery, and videos; food sales, and sales or leasing of consumer vehicles including passenger vehicles, motorcycles, light and medium trucks, and other recreational vehicles.
2. Personal service-oriented: Branch banks; urgency medical care; laundromats; photographic studios; photocopy and blueprint services; hair, tanning, and personal care services; tax preparers, accountants, real estate, legal, financial services; business, martial arts, and other trade schools; dance or music classes; taxidermists; mortuaries; veterinarians; kennels limited to boarding, with no breeding; and animal grooming.
3. Entertainment-oriented: Restaurants, cafes, delicatessens, taverns, and bars
4. Repair-oriented: Repair of TVs, bicycles, clocks, watches, shoes, guns, appliances and office equipment; photo or laundry drop off; quick printing; recycling drop-off; tailor; locksmith; and upholsterer.

D. Exceptions.

1. Lumber yards and other building material sales that sell to contractors and not retail customers are classified as Wholesale Sales.
2. Indoor or outdoor continuous entertainment activities such as bowling alleys, ice rinks, and game arcades; pool halls; indoor firing ranges; theaters, health clubs, gyms, membership clubs, and lodges; hotels, motels, recreational vehicle parks, and other temporary lodging with an average length of stay of less than 30 days are classified as Recreation and Entertainment.
3. Repair and service of consumer motor vehicles, motorcycles, light and medium trucks and small personal transportation devices (e.g., electric carts) and garden tractors, is classified

as Vehicle Repair. Repair and service of industrial vehicles and equipment, including farm, construction and other heavy equipment, and heavy trucks is classified as Vehicle Repair.

4. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop which is classified as Commercial Vehicle Servicing.
5. In certain situations, hotels and motels may be classified as a Community Service use, such as publicly assisted, short term housing or mass shelter in the event of an emergency declared by a government agency. See Community Services.

17.04.270 SELF-SERVICE STORAGE.

- A. **Characteristics.** Self-Service Storage uses provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing personal property.
- B. **Accessory Uses.** Accessory uses may include security and leasing offices. Living quarters for one (1) resident manager per site are allowed. Other living quarters are subject to the regulations for Residential Uses. Use of the storage areas for sales, service and repair operations, or manufacturing is not considered accessory to the Self-Service Storage use. The rental of trucks or equipment is also not considered accessory to a Self-Service Storage use.
- C. **Examples.** Examples include single story and multistory facilities that provide individual storage areas for rent; these uses are also called mini warehouses. Secured yards providing storage areas for recreational vehicles.
- D. **Exceptions.** A transfer and storage business where any individual storage areas are incidental to transfer and storage operations, or where employees are the primary movers of the goods to be stored or transferred, is in the Warehouse and Freight Movement category.

17.04.280 VEHICLE REPAIR.

- A. **Characteristics.** Firms servicing passenger vehicles, light and medium trucks and other consumer motor vehicles such as motorcycles, boats and recreational vehicles. Generally, the customer does not wait at the site while the service or repair is being performed. (Different than Quick Vehicle Services category.)

- B. Accessory Uses.** Accessory uses may include offices, sales of parts, and vehicle storage.
- C. Examples.** Examples include vehicle repair, transmission or muffler shop, auto body shop, alignment shop, auto upholstery shop, auto detailing, and tire sales and mounting.
- D. Exceptions.** Repair and service of industrial vehicles and equipment, and of heavy trucks; towing and vehicle storage; and vehicle wrecking and salvage are classified as Industrial Service.

INDUSTRIAL USE CATEGORIES

17.04.300 INDUSTRIAL SERVICE.

- A. Characteristics.** Industrial Service firms are engaged in the repair or servicing of industrial, business or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Contractors and building maintenance services and similar uses perform services off-site. Few customers, especially the general public, come to the site.
- B. Accessory Uses.** Accessory uses may include offices, parking, storage, rail spur or lead lines, and docks.
- C. Examples.** Examples include welding shops; machine shops; tool repair; electric motor repair; repair of scientific or professional instruments; sales, repair, storage, salvage or wrecking of heavy machinery, metal, and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; building, heating, plumbing or electrical contractors; printing, publishing and lithography; exterminators; recycling operations; janitorial and building maintenance services; fuel oil distributors; solid fuel yards; research and development laboratories; dry-docks and the repair or dismantling of ships and barges; laundry, dry-cleaning, and carpet cleaning plants; and photofinishing laboratories.
- D. Exceptions.**
 - 1. Contractors and others who perform Industrial Services off-site are included in the Office category, if equipment and materials are not stored at the site, and fabrication, or similar work is not carried on at the site.

2. Hotels, restaurants, and other services that are part of a truck stop are considered accessory to the truck stop.

17.04.310 MANUFACTURING AND PRODUCTION.

- A. Characteristics.** Manufacturing and Production firms are involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, man-made, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, they are a subordinate part of sales. Relatively few customers come to the manufacturing site, as distinguished from Retail Sales and Services where customers routinely come to the business.
- B. Accessory Uses.** Accessory uses may include offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, rail spur or lead lines, docks, repair facilities, or truck fleets. Living quarters for one (1) caretaker per site are allowed. Other living quarters are subject to the regulations for Residential Uses.
- C. Examples.** Examples include processing of food and related products; catering establishments; breweries, distilleries, and wineries; slaughter houses, and meat packing; feed lots and animal dipping; weaving or production of textiles or apparel; lumber mills, pulp and paper mills, and other wood products manufacturing; woodworking, including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone, or glass materials or products; movie production facilities; ship and barge building; concrete batching and asphalt mixing; production or fabrication of metals or metal products including enameling and galvanizing; manufacture or assembly of machinery, equipment, instruments, including musical instruments, vehicles, appliances, precision items, and other electrical items; production of artwork and toys; sign making; production of prefabricated structures, including mobile homes; and the production of energy.
- D. Exceptions.**

1. Manufacturing of goods to be sold primarily on-site and to the general public is classified as Retail Sales and Service; where the majority of traffic to the business is for retail sales and the manufacturing use is entirely indoors, the use will be categorized as Retail Sales and Service.
2. Manufacture and production of goods from composting organic material is classified as Waste-Related uses.

17.04.320 WAREHOUSE, FREIGHT MOVEMENT AND DISTRIBUTION.

- A. Characteristics.** Warehouse, Freight Movement, and Distribution involves the storage, or movement of goods for the subject firm or other firms, including goods that are generally delivered to the final consumer. There is little on-site sales activity with the customer present, except for some will-call pickups.
- B. Accessory Uses.** Accessory uses may include offices, truck fleet parking and maintenance areas, rail spur or lead lines, docks, repackaging of goods, and will-call pickups.
- C. Examples.** Examples include separate or off-site warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; storage of weapons and ammunition; major wholesale distribution centers; truck, marine, or air freight terminals; bus barns; parcel services; major post offices; grain terminals; and the stockpiling of sand, gravel, or other aggregate materials.
- D. Exceptions.**
 1. Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related uses.
 2. Mini-warehouses are classified as Self-Service Storage uses.

17.04.330 WASTE-RELATED AND RECYCLING FACILITIES.

- A. Characteristics.** Waste-Related uses are characterized by uses that receive solid or liquid wastes from others for disposal on the site or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods or energy from the biological decomposition of

organic material. Waste-Related uses also include commercial or industrial uses that receive, store, sort, and distribute post-consumer recyclable materials; and those that receive hazardous wastes from others and are subject to the regulations of OAR 340. 100-110, Hazardous Waste Management.

- B. Accessory Uses.** Accessory uses may include offices, repackaging and transshipment of by-products, and recycling of materials.
- C. Examples.** Examples include sanitary landfills, limited use landfills, waste composting, energy recovery plants, sewer treatment plants, portable sanitary collection equipment storage and pumping, recycling centers, and hazardous-waste-collection sites.
- D. Exceptions.**
 1. Disposal of clean fill, as defined in OAR 340-093-0030, is considered a fill, not a Waste-Related use.
 2. Sewer pipes that serve a development are considered a Basic Utility.
 3. Excavation is considered Development or Mining, as applicable.

17.04.340 WHOLESALE SALES.

- A. Characteristics.** Wholesale Sales firms are involved in the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
- B. Accessory Uses.** Accessory uses may include offices, product repair, warehouses, parking, minor fabrication services, and repackaging of goods.
- C. Examples.** Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies,

restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, building hardware, and office supplies.

D. Exceptions.

1. Firms that engage primarily in sales to the general public are classified as Retail Sales and Service.
2. Firms that engage in sales on a membership basis are classified as either Retail Sales and Service or Wholesale Sales, based on a consideration of characteristics of the use and the customer traffic generated.
5. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse, Freight Movement, and Distribution.

INSTITUTIONAL AND CIVIC USE CATEGORIES

17.04.400 BASIC UTILITIES, PRIVATE OR PUBLIC.

- A. Characteristics.** Basic Utilities are infrastructure services which need to be located in or near the area where the service is provided. Basic Utility uses generally do not have regular employees at the site. Services may be public or privately provided. All public safety facilities are Basic Utilities.
- B. Accessory Uses.** Accessory uses may include parking; control, monitoring, data or transmission equipment.
- C. Examples.** Examples include water and sewer pump stations; sewage disposal and conveyance systems; electrical substations; water towers and reservoirs; water quality and flow control facilities; water conveyance systems; stormwater facilities and conveyance systems; telephone exchanges; bus stops or turnarounds, suspended cable transportation systems, and public safety facilities, and emergency communication broadcast facilities when not accessory to a different primary use; except fire and police stations and holding cells within a police standard are Community Services or Offices.
- D. Exceptions.**

1. Services where people are generally present, other than bus stops or turnarounds, and public safety facilities, are classified as Community Services or Offices.
2. Utility offices where employees or customers are generally present are classified as Offices.
3. Bus barns and similar facilities are classified as Warehouse and Freight Movement.
4. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Rail Lines and Utility Corridors.

17.04.410 COMMUNITY SERVICES; GOVERNMENT OFFICES.

- A. Characteristics.** Community Services are uses of a public, nonprofit, or charitable nature generally providing a local service to people of the community, except for Schools which are categorized separately. Generally, they provide the service on the site or have employees at the site on a regular basis. The service is ongoing, not just for special events. Private lodges, clubs, and non-profit athletic or health clubs that have membership provisions are open to the general public to join at any time may be considered a Community Service. Uses providing mass shelter or short term housing where tenancy may be arranged for periods of less than one (1) month when operated by a public or non-profit agency may also be considered a Community Service. The use may also provide special counseling, education, or training of a public, nonprofit or charitable nature.
- B. Accessory Uses.** Accessory uses may include offices; meeting areas; food preparation areas; parking, health and therapy areas; daycare uses; and athletic facilities.
- C. Examples.** Examples include city hall, county government and administrative offices, fire and police stations, libraries, museums, senior centers, community centers, publicly owned swimming pools, youth club facilities, hospices, ambulance stations, drug and alcohol centers, social service facilities, mass shelters or short term housing when operated by a public or non-profit agency, vocational training for the physically or mentally disabled, soup kitchens, and surplus food distribution centers.
- D. Exceptions.**

1. Private commercial athletic clubs, golf clubs (e.g., clubhouse or restaurant exceeding 2,000 square feet of floor area), and private museums and similar commercial uses are classified as Retail Sales and Services.
2. Parks are in Parks and Open Areas.
3. Uses where tenancy is arranged on a month-to-month basis, or for a longer period are residential, and are classified as Household or Group Living.
4. Public safety facilities are classified as Basic Utilities.

17.04.420 DAYCARE FACILITY.

- A. Characteristics.** Daycare Facility use includes day or evening care of seven (7) or more children outside of the children's homes, for a fee. Daycare Facility uses also include the daytime care of teenagers or adults who need assistance or supervision. See also, Family Daycare, which is a different use category.
- B. Accessory Uses.** Accessory uses include: offices, play areas, and parking.
- C. Examples.** Examples include preschools, nursery schools, latch key programs, and adult daycare programs.
- D. Exceptions.** Daycare Facility use does not include care given by the parents, guardians, or relatives of the children, or by babysitters. Daycare Facility use also does not include care given by a "family daycare" provider as defined by State law if the care is given to six (6) or fewer children at any one time including the children of the provider. Family daycare is care regularly given in the family living quarters of the provider's home, and is regulated as a home occupation.

17.04.430 MEDICAL CENTERS.

- A. Characteristics.** Medical Centers includes uses providing medical or surgical care to patients and may offer overnight care.

- B. Accessory Uses.** Accessory uses include out-patient clinics, offices, laboratories, teaching facilities, meeting areas, cafeterias, parking, maintenance facilities, and housing facilities for staff or trainees.
- C. Examples.** Examples include hospitals and medical complexes that include hospitals. Medical clinics (medical, dental, vision, and similar clinics) that provide care where patients are generally not kept overnight and urgency medical care clinics not otherwise part of a Medical Center also are included as examples.
- D. Exceptions.** Uses that provide exclusive care and planned treatment or training for psychiatric, alcohol, or drug problems, where patients are residents of the program, are classified in the Group Living category.

17.04.440 PARKS AND OPEN SPACE AREAS.

- A. Characteristics.** Parks and Open Space Areas are uses of land focusing on natural areas, public or private parks consisting mostly of playfields, playgrounds, turf or similar facilities for outdoor recreation, community gardens, trails, or public squares. Parks and open space areas tend to have few structures and structures are accessory to the primary park, trail, or outdoor recreation use.
- B. Accessory Uses.** Accessory uses may include club houses, maintenance facilities, concessions (as with athletic fields), caretaker's quarters, and parking.
- C. Examples.** Examples include parks, golf courses, cemeteries, public squares, plazas, recreational trails, community garden plots, botanical gardens, boat launching areas, nature preserves, and open space that is approved through design review and is not part of an Agricultural use.

17.04.450 RELIGIOUS INSTITUTIONS AND PLACES OF WORSHIP.

- A. Characteristics.** Religious Institutions are intended to primarily provide meeting areas for religious activities.
- B. Accessory Uses.** Accessory uses include Sunday school facilities, parking, caretaker's housing, one transitional housing unit, and group living facilities such as convents. A transitional housing unit is a housing unit for one (1) household where the average length of stay is less than sixty (60) days.

Religious schools, when accessory to a religious institution, are different than a school as a primary use. Additional housing may be permitted as a primary use on the same site as a Religious Institution or Place of Worship subject to applicable Code requirements.

- C. **Examples.** Examples include churches, temples, synagogues, and mosques.

17.04.460 SCHOOLS.

- A. **Characteristics.** This category includes public and private schools, secular or parochial, at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education.
- B. **Accessory Uses.** Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school daycare.
- C. **Examples.** Examples include public and private daytime schools, boarding schools and military and similar academies.
- D. **Exceptions.**
 - 1. Preschools are classified as Daycare Facility uses.
 - 2. Business and trade schools are classified as Vocational Schools.

17.04.470 DETENTION FACILITIES.

- A. **Characteristics.** This category includes law enforcement incarceration facilities that are not accessory to a police station or law enforcement office.
- B. **Accessory Uses.** Accessory uses include visitor areas, cafeterias, recreational and sport facilities, and educational facilities.
- C. **Examples.** Examples include short- and long-term city, county, state, or federal law enforcement facilities, at any designated level of security.

- D. Exceptions.** Does not include police station holding cells and similar temporary incarceration facilities.

OTHER USE CATEGORIES

17.04.500 AGRICULTURE.

- A. Characteristics.** Agriculture includes activities that raise, produce or keep plants or animals.
- B. Accessory Uses.** Accessory uses include dwellings for proprietors and employees of the use, and animal training and veterinary services.
- C. Examples.** Examples include breeding or raising of fowl or other animals; dairy farms; stables; riding academies; kennels or other animal boarding places; veterinary services; farming, truck gardening, horticulture and wholesale plant nurseries.
- D. Exceptions.**
1. Processing of animal or plant products, including milk, and feed lots, are classified as Manufacturing and Production.
 2. Livestock auctions are classified as Wholesale Sales.
 3. Plant nurseries that are oriented to retail sales are classified as Retail Sales and Service.
 4. When kennels are limited to boarding, with no breeding, or small animal veterinary services are provided without exterior holding pens, the city may determine the use category is Agriculture or Retail Sales and Service.

17.04.510 MINING AND SIMILAR EXTRACTIVE INDUSTRIES.

- A. Characteristics.** Mining includes mining or extraction of mineral or aggregate resources from the ground for off-site use.

- B. Accessory Uses.** Accessory uses include storage, sorting, stockpiling, or transfer off-site of the mined material.
- C. Examples.** Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil, gas, or geothermal drilling. Note: Planning clearance is required prior to any grading or clearing of vegetation from a site, even if the intended use is not Mining. In such case, the land use designation is the same as that for which the clearing or grading is proposed. Other permit requirements may also apply.

17.04.520 RADIO FREQUENCY TRANSMITTING FACILITIES.

- A. Characteristics.** Radio Frequency Transmission Facilities includes all devices, equipment, machinery, structures or supporting elements necessary to produce non-ionizing electromagnetic radiation within the range of frequencies from 100 KHz to 300 GHz and operating as a discrete unit to produce a signal or message. Towers may be self supporting, guyed, or mounted on poles or buildings.
- B. Accessory Uses.** Accessory use may include transmitter facility buildings.
- C. Examples.** Examples include broadcast towers, communication/cell towers, and point-to-point microwave towers.
- D. Exceptions.**
 - 1. Receive-only antennae are not included in this category.
 - 2. Radio and television studios are classified in the Office category.
 - 3. Radio Frequency Transmission Facilities that are public safety facilities are classified as Basic Utilities.

17.04.530 UTILITY CORRIDORS.

- A. Characteristics.** The category includes public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, natural gas, or other similar services on a regional level.

- B. Examples.** Examples include regional electrical transmission lines; and regional gas and oil pipelines.

- C. Exceptions.** Utilities exclusively serving the City of Fruita (e.g., utilities placed within a street or trail right-of-way or easement in conjunction with an approved subdivision) are not classified as utility corridors.

Chapter 17.05
LAND DEVELOPMENT APPLICATIONS - GENERAL PROVISIONS

Sections:

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17.05.020	No Use or Occupancy Until Requirements Fulfilled
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17.05.060	Appeals of Administrative Decisions
17.05.070	Procedures for Applications Requiring a Public Hearing
17.05.080	Reconsideration by City Council
17.05.090	Amendments To Approved Land Development Applications

17.05.010 DESIGNATION OF REQUIRED LAND DEVELOPMENT APPLICATIONS.

- A. The use made of property may not be substantially changed; substantial clearing, grading, or excavating may not be commenced; and buildings, fences, or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with the requirements of this Title.
- B. Land development applications are approved under this Title only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Title, if completed as proposed, including any conditions of approval. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in this Title, all developments shall occur strictly in accordance with such approved plans, applications, and conditions of approval, as applicable.
- C. Physical improvements to land to be subdivided may not be commenced except in accordance with approval by the City Council or after the completion of all requirements as certified by the Community Development Director and City Engineer.
- D. Physical improvements to land subject to land development application requirements may be approved by the city staff to allow expedited construction of certain specific improvements prior to permit and approval issuance in unique and special circumstances where delays would cause unacceptable impacts to city projects or activities. Such approval requires an administrative order or letter signed by the Public Works Director, City Engineer, or Community Development Director stating the reason for the approval.
- E. Land development application approvals issued under this Title shall be issued in the

name of the applicant or the applicant's agent (authorized representative), as applicable. Land development application approvals made under this Title shall identify the property involved and the proposed use, shall incorporate by reference, the plans submitted and shall contain any special conditions or requirements lawfully imposed by the permit issuing authority.

17.05.020 NO USE OR OCCUPANCY UNTIL REQUIREMENTS FULFILLED. Approval of a land development application authorizes the recipient to commence; the activity resulting in a change of use of the land or; to obtain a building permit, if required pursuant to the Fruita Municipal Code, to commence work to construct, erect, move, place, or substantially alter buildings or other structures or; to make necessary improvements to a subdivision. However, except as otherwise permitted in this Title, the intended use may not be commenced, and no building may be occupied, until all of the requirements of this Title and all additional requirements imposed pursuant to the issuance of a permit or approval have been complied with.

17.05.030 CERTIFICATE OF OCCUPANCY REQUIRED. No building or structure shall be occupied, and no change in existing occupancy classification of a building or structure or portion thereof shall be made until the city has authorized the issuance of a Certificate of Occupancy. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of provisions of this Title or other titles of the Municipal Code.

The city may suspend or revoke a Certificate of Occupancy or completion issued under the provision of this Title where ever the Certificate was issued in error, or on the basis or incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

17.05.040 TEMPORARY POSTPONEMENT OF IMPROVEMENTS It shall be within the administrative discretion of the City Manager to approve a temporary postponement of certain required improvements so long as the public health, safety, and welfare are preserved and the recipient provides a performance bond or other security satisfactory to the city to ensure that all to of the requirements of this Title will be fulfilled within a reasonable period. At a minimum, a request for postponing improvements must be submitted in writing explaining what improvements are requested to be postponed, why the postponement is necessary and when the improvements will be completed. At the City Manager's discretion, a request to postpone improvements may be sent to the City Council for a decision.

17.05.050 APPLICATION REQUIREMENTS AND LIMITATIONS.

- A. Applications for land development approvals shall be submitted in the form and numbers as determined by the Community Development Director and accompanied by the requisite application fee(s) adopted by the City Council. An application shall not be processed or scheduled for public hearing until the Community Development Director deems it complete.

- B. Applications for land development application approvals required under this Title will be accepted only from parties in interest who are owners of record or their authorized representative.
- C. To help minimize development-planning costs, avoid misunderstandings or misinterpretation of city requirements, and ensure compliance with the requirements of this Title, a pre-application meeting between the applicant and the Community Development Department and other staff is encouraged or required as provided in this Title. For applications in which a pre-application meeting is required, a pre-submittal meeting will not be held unless a pre-application meeting has been held. Pre-application meetings are valid for a period of six (6) months from the date of the meeting, after which a new pre-application meeting may be required. Pre-application meetings may not adequately address all city requirements or requirements of outside agencies (e.g., CDOT, Health Department, Mesa County). Applicants are encouraged to seek information on permit requirements from other agencies, as applicable.
- D. After the applicant has fully prepared its application for a permit or approval, the applicant is encouraged to schedule and hold a pre-submittal meeting with Community Development Department staff prior to submittal of the application to help ensure the application will be correct and complete when submitted.
- E. All applications for land development approvals required under this Title must be complete before the permit issuing authority is required to consider the application. A notice of completeness or incompleteness shall be issued by the Community Development Department within fifteen (15) days of the receipt of an application. Upon a determination that an application for a permit or approval is complete, the Community Development Department shall issue a notice of completeness to the applicant and place the application on the agenda of the Planning Commission, City Council, or Board of Adjustment if review by such body is required under this Title. If such review is not required, the Community Development Director shall act on the application pursuant to this Land Use Code.
- F. The burden of persuasion on the issue of whether the development or use applied for, if completed as proposed, will comply with the requirements of this Title and should be approved remains, at all times, on the applicant. The Community Development Director may request additional information from the applicant during the course of reviewing the application if, based on professional expertise or relevant input provided by the Planning Commission or City Council, the Director believes that such information would be helpful in evaluating the application for compliance with the requirements of this Land Use Code.
- G. The city shall make every reasonable effort to process review applications as

expeditiously as possible, consistent with the need to ensure that the application conforms to the requirements of this Title.

17.05.060 APPEALS OF ADMINISTRATIVE DECISIONS.

- A. Any person aggrieved by a decision of the City Manager under the provisions of this Title may appeal such decision to the City Council within thirty (30) days of the decision from which the appeal is taken. The letter of appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any documentary evidence. The City Council shall then hold a public hearing on such appeal at a regular meeting within forty-five (45) days of the date of the filing of the appeal. Public notice shall be given as required as per Section 17.01.130 of this Title. Following such hearing the City Council shall affirm the decision of the City Manager, or reverse, or modify such decision.
- B. Any person who has provided a written comment to the Community Development Department regarding a land development application that is permitted to be approved administratively will be provided with a copy of the decision by the Community Development Department including information on how to appeal that decision.

17.05.070 PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS REQUIRING A PUBLIC HEARING.

- A. Pre-Application Meeting. A pre-application meeting with the Community Development Department is required prior to submitting an application for any proposal that requires a public hearing under this Title. The purpose of the pre-application meeting is informational; staff will review the applicant's preliminary proposal and provide informal feedback on applicable city codes and requirements. The intent is to promote efficiency and two-way communication early in the development review process between applicants and the city. Prospective applicants are strongly encouraged to contact adjacent property owners for the purpose of soliciting neighborhood input prior to formally submitting an application.
- B. Staff Review. The Community Development Director shall review the application with appropriate staff and other agencies and shall prepare a Staff Report setting forth the staff's findings concerning the application's compliance with the requirements of this Title and a staff recommendation including any conditions of approval, if applicable. The Community Development Director is responsible for reviewing comments and recommendations of other city departments and review agencies and shall incorporate their comments into one consolidated and reconciled Staff Report. If the Staff Report finds that the application fails to comply with applicable requirements of this Title, it shall identify the requirements in question and specifically state supporting reasons for the proposed findings. The Staff Report shall be available for public review at least seven (7) days prior to the scheduled hearing. The Community Development Department shall

provide copies of the application, review comments, public comments and other applicable information to the Planning Commission or the Board of Adjustment, as applicable.

C. Planning Commission Review. Before being presented to the City Council, the Planning Commission shall hold a public hearing on the application for a recommendation to the City Council. The applicant, or the applicant's representative, shall be present at the Planning Commission public hearing to represent the application. The Community Development Department shall provide to the Planning Commission application information, a Staff Report, review comments, written public comments and other related documents. At the Planning Commission public hearing, the Planning Commission shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing. The Planning Commission shall consider whether the application complies with all of the applicable requirements of this Title. At the close of the public hearing, the Planning Commission shall take one of the following actions:

1. Recommend to the City Council that the application be approved, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
2. Recommend denial of the application, stating the specific reasons for recommending denial.

D. City Council Review. After the Planning Commission has made a recommendation, the Community Development Department shall provide to the City Council all information presented to the Planning Commission and include a report containing the Planning Commission's recommendation and whether staff concurs in whole or in part with the Planning Commission's findings and recommendation. The City Council shall hold a public hearing to consider whether the application complies with all of the applicable requirements of this Title. The applicant or the applicant's representative shall be present at the City Council public hearing to represent the application.

At the City Council public hearing, the City Council shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing.

If the City Council finds that an application does comply with the requirements of this Title, it shall approve the application.

If the City Council finds that the application does not meet all of the applicable requirements of this Title, it shall specify the reasons why the application fails to comply with applicable requirements and include them in its motion to deny the application.

If the City Council concludes that the application fails to comply with one or more requirements of this Title, but the application can be made to comply with all requirements of this Title through the imposition of conditions of approval, the City Council may approve the application subject to conditions of approval.

The City Council's decision approving, approving with conditions or denying, the application shall include specific findings, based upon the evidence submitted, justifying such a conclusion.

E. Board of Adjustment Review. The Board of Adjustment shall hold a public hearing on land development applications requiring a decision by the Board of Adjustment. The applicant, or the applicant's representative, shall be present at the Board of Adjustment public hearing to represent the application. The Community Development Department shall provide to the Board of Adjustment application information, a Staff Report, review comments, written public comments and other related documents. At the Board of Adjustment public hearing, the Board of Adjustment shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing. The Board of Adjustment shall consider whether the application complies with all of the applicable requirements of this Title including variance approval criteria of Section 17.13.050. At the close of the public hearing, the Board of Adjustment shall take one of the following actions:

1. Approve the application subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
2. Recommend denial of the application, stating the specific reasons for denial.

17.05.080 RECONSIDERATION BY CITY COUNCIL OR BOARD OF ADJUSTMENT.

City Council or Board of Adjustment decisions on land use applications, whether approval or denial, may not be reconsidered by the City Council or Board of Adjustment for one (1) year unless it is clearly demonstrated that:

- A. Circumstances affecting the property that is the subject of the application have substantially changed, or;
- B. New information is available that could not, with reasonable diligence, have been

presented at a previous hearing. A request to be heard on this basis must be filed with the Community Development Director within thirty (30) days of the original decision, or;

- C. Nothing contained in this Section shall preclude the submission of a substantially new application as determined by the Community Development Director and the City Engineer.

17.05.090 AMENDMENT TO APPROVED LAND DEVELOPMENT APPLICATIONS.

The Community Development Director may authorize minor deviations from the original approved application, including approvals by the City Council. The Community Development Director shall determine whether amendments to and modifications of approved land development applications are minor or major. Major deviation shall be subject to review and approval by the city decision making body that approved the original application, provided an application that was approved by City Council may be referred to the Planning Commission first for a recommendation pursuant to Section 17.05.070. A major deviation is one that exceeds one or more of the following thresholds:

- A. Increase in the number of residential lots or dwelling units;
- B. Reduction in the area of open space by more than ten (10) percent, or a reduction in the quality of open space, as determined by the Community Development Director;
- C. Increase in permitted floor area by more than ten (10) percent for any single non-residential building;
- D. Modification to any site design or lot development standard in this Title;
- E. Any change to a requirement imposed through conditions of approval;
- F. Modifications to street standards or other public improvement requirements shall be subject to approval by the City Engineer, pursuant to the City of Fruita Engineering Design Criteria and Construction Specifications. Where a modification potentially affects a project's compliance with this Title, or any condition of approval related to this Title imposed through the original approval, the request shall be subject to review and approval by the Community Development Director. The Community Development Director may refer the request to the Planning Commission and City Council.

Chapter 17.05
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17.05.010 DESIGNATION OF REQUIRED LAND DEVELOPMENT APPLICATIONS.

- A. The use made of property may not be substantially changed; substantial clearing, grading, or excavating may not be commenced; and buildings, fences, or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with the requirements of this Title.
- B. Land development applications are approved under this Title only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Title, if completed as proposed, including any conditions of approval. Such plans and applications as are finally approved are incorporated into any permit issued, and except as otherwise provided in this Title, all developments shall occur strictly in accordance with such approved plans, applications, and conditions of approval, as applicable.
- C. Physical improvements to land to be subdivided may not be commenced except in accordance with approval by the City Council or after the completion of all requirements as certified by the Community Development Director and City Engineer.
- D. Physical improvements to land subject to land development application requirements may be approved by the city staff to allow expedited construction of certain specific improvements prior to permit and approval issuance in unique and special circumstances where delays would cause unacceptable impacts to city projects or activities. Such approval requires an administrative order or letter signed by the Public Works Director, City Engineer, or Community Development Director stating the reason for the approval.
- E. Land development application approvals issued under this Title shall be issued in the

name of the applicant or the applicant's agent (authorized representative), as applicable. Land development application approvals made under this Title shall identify the property involved and the proposed use, shall incorporate by reference, the plans submitted and shall contain any special conditions or requirements lawfully imposed by the permit issuing authority.

17.05.020 NO USE OR OCCUPANCY UNTIL REQUIREMENTS FULFILLED. Approval of a land development application authorizes the recipient to commence; the activity resulting in a change of use of the land or; to obtain a building permit, if required pursuant to the Fruita Municipal Code, to commence work to construct, erect, move, place, or substantially alter buildings or other structures or; to make necessary improvements to a subdivision. However, except as otherwise permitted in this Title, the intended use may not be commenced, and no building may be occupied, until all of the requirements of this Title and all additional requirements imposed pursuant to the issuance of a permit or approval have been complied with.

17.05.030 CERTIFICATE OF OCCUPANCY REQUIRED. No building or structure shall be occupied, and no change in existing occupancy classification of a building or structure or portion thereof shall be made until the city has authorized the issuance of a Certificate of Occupancy. Issuance of a Certificate of Occupancy shall not be construed as an approval of a violation of provisions of this Title or other titles of the Municipal Code.

The city may suspend or revoke a Certificate of Occupancy or completion issued under the provision of this Title where ever the Certificate was issued in error, or on the basis or incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Title.

17.05.040 TEMPORARY POSTPONEMENT OF IMPROVEMENTS It shall be within the administrative discretion of the City Manager to approve a temporary postponement of certain required improvements so long as the public health, safety, and welfare are preserved and the recipient provides a performance bond or other security satisfactory to the city to ensure that all to of the requirements of this Title will be fulfilled within a reasonable period. At a minimum, a request for postponing improvements must be submitted in writing explaining what improvements are requested to be postponed, why the postponement is necessary and when the improvements will be completed. At the City Manager's discretion, a request to postpone improvements may be sent to the City Council for a decision.

17.05.050 APPLICATION REQUIREMENTS AND LIMITATIONS.

- A. Applications for land development approvals shall be submitted in the form and numbers as determined by the Community Development Director and accompanied by the requisite application fee(s) adopted by the City Council. An application shall not be processed or scheduled for public hearing until the Community Development Director deems it complete.

- B. Applications for land development application approvals required under this Title will be accepted only from parties in interest who are owners of record or their authorized representative.
- C. To help minimize development-planning costs, avoid misunderstandings or misinterpretation of city requirements, and ensure compliance with the requirements of this Title, a pre-application meeting between the applicant and the Community Development Department and other staff is encouraged or required as provided in this Title. For applications in which a pre-application meeting is required, a pre-submittal meeting will not be held unless a pre-application meeting has been held. Pre-application meetings are valid for a period of six (6) months from the date of the meeting, after which a new pre-application meeting may be required. Pre-application meetings may not adequately address all city requirements or requirements of outside agencies (e.g., CDOT, Health Department, Mesa County). Applicants are encouraged to seek information on permit requirements from other agencies, as applicable.
- D. After the applicant has fully prepared its application for a permit or approval, the applicant is encouraged to schedule and hold a pre-submittal meeting with Community Development Department staff prior to submittal of the application to help ensure the application will be correct and complete when submitted.
- E. All applications for land development approvals required under this Title must be complete before the permit issuing authority is required to consider the application. A notice of completeness or incompleteness shall be issued by the Community Development Department within fifteen (15) days of the receipt of an application. Upon a determination that an application for a permit or approval is complete, the Community Development Department shall issue a notice of completeness to the applicant and place the application on the agenda of the Planning Commission, City Council, or Board of Adjustment if review by such body is required under this Title. If such review is not required, the Community Development Director shall act on the application pursuant to this Land Use Code.
- F. The burden of persuasion on the issue of whether the development or use applied for, if completed as proposed, will comply with the requirements of this Title and should be approved remains, at all times, on the applicant. The Community Development Director may request additional information from the applicant during the course of reviewing the application if, based on professional expertise or relevant input provided by the Planning Commission or City Council, the Director believes that such information would be helpful in evaluating the application for compliance with the requirements of this Land Use Code.
- G. The city shall make every reasonable effort to process review applications as

expeditiously as possible, consistent with the need to ensure that the application conforms to the requirements of this Title.

17.05.060 APPEALS OF ADMINISTRATIVE DECISIONS.

- A. Any person aggrieved by a decision of the City Manager under the provisions of this Title may appeal such decision to the City Council within thirty (30) days of the decision from which the appeal is taken. The letter of appeal shall state the specific grounds upon which the appeal is based and shall have attached to it any documentary evidence. The City Council shall then hold a public hearing on such appeal at a regular meeting within forty-five (45) days of the date of the filing of the appeal. Public notice shall be given as required as per Section 17.01.130 of this Title. Following such hearing the City Council shall affirm the decision of the City Manager, or reverse, or modify such decision.
- B. Any person who has provided a written comment to the Community Development Department regarding a land development application that is permitted to be approved administratively will be provided with a copy of the decision by the Community Development Department including information on how to appeal that decision.

17.05.070 PROCEDURES FOR LAND DEVELOPMENT APPLICATIONS REQUIRING A PUBLIC HEARING.

- A. Pre-Application Meeting. A pre-application meeting with the Community Development Department is required prior to submitting an application for any proposal that requires a public hearing under this Title. The purpose of the pre-application meeting is informational; staff will review the applicant's preliminary proposal and provide informal feedback on applicable city codes and requirements. The intent is to promote efficiency and two-way communication early in the development review process between applicants and the city. Prospective applicants are strongly encouraged to contact adjacent property owners for the purpose of soliciting neighborhood input prior to formally submitting an application.
- B. Staff Review. The Community Development Director shall review the application with appropriate staff and other agencies and shall prepare a Staff Report setting forth the staff's findings concerning the application's compliance with the requirements of this Title and a staff recommendation including any conditions of approval, if applicable. The Community Development Director is responsible for reviewing comments and recommendations of other city departments and review agencies and shall incorporate their comments into one consolidated and reconciled Staff Report. If the Staff Report finds that the application fails to comply with applicable requirements of this Title, it shall identify the requirements in question and specifically state supporting reasons for the proposed findings. The Staff Report shall be available for public review at least seven (7) days prior to the scheduled hearing. The Community Development Department shall

provide copies of the application, review comments, public comments and other applicable information to the Planning Commission or the Board of Adjustment, as applicable.

C. Planning Commission Review. Before being presented to the City Council, the Planning Commission shall hold a public hearing on the application for a recommendation to the City Council. The applicant, or the applicant's representative, shall be present at the Planning Commission public hearing to represent the application. The Community Development Department shall provide to the Planning Commission application information, a Staff Report, review comments, written public comments and other related documents. At the Planning Commission public hearing, the Planning Commission shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing. The Planning Commission shall consider whether the application complies with all of the applicable requirements of this Title. At the close of the public hearing, the Planning Commission shall take one of the following actions:

1. Recommend to the City Council that the application be approved, subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
2. Recommend denial of the application, stating the specific reasons for recommending denial.

D. City Council Review. After the Planning Commission has made a recommendation, the Community Development Department shall provide to the City Council all information presented to the Planning Commission and include a report containing the Planning Commission's recommendation and whether staff concurs in whole or in part with the Planning Commission's findings and recommendation. The City Council shall hold a public hearing to consider whether the application complies with all of the applicable requirements of this Title. The applicant or the applicant's representative shall be present at the City Council public hearing to represent the application.

At the City Council public hearing, the City Council shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing.

If the City Council finds that an application does comply with the requirements of this Title, it shall approve the application.

If the City Council finds that the application does not meet all of the applicable requirements of this Title, it shall specify the reasons why the application fails to comply with applicable requirements and include them in its motion to deny the application.

If the City Council concludes that the application fails to comply with one or more requirements of this Title, but the application can be made to comply with all requirements of this Title through the imposition of conditions of approval, the City Council may approve the application subject to conditions of approval.

The City Council's decision approving, approving with conditions or denying, the application shall include specific findings, based upon the evidence submitted, justifying such a conclusion.

E. Board of Adjustment Review. The Board of Adjustment shall hold a public hearing on land development applications requiring a decision by the Board of Adjustment. The applicant, or the applicant's representative, shall be present at the Board of Adjustment public hearing to represent the application. The Community Development Department shall provide to the Board of Adjustment application information, a Staff Report, review comments, written public comments and other related documents. At the Board of Adjustment public hearing, the Board of Adjustment shall accept oral and written testimony from staff, the applicant and members of the public. For the record, Community Development Department staff shall be provided a copy of all new written or graphic information provided by the applicant or the public at the public hearing. The Board of Adjustment shall consider whether the application complies with all of the applicable requirements of this Title including variance approval criteria of Section 17.13.050. At the close of the public hearing, the Board of Adjustment shall take one of the following actions:

1. Approve the application subject to any conditions it finds necessary to protect the public health, safety and welfare or to ensure compliance with the city's regulations and stating the reasons for the approval including conditions of approval; or
2. Recommend denial of the application, stating the specific reasons for denial.

17.05.080 RECONSIDERATION BY CITY COUNCIL OR BOARD OF ADJUSTMENT.

City Council or Board of Adjustment decisions on land use applications, whether approval or denial, may not be reconsidered by the City Council or Board of Adjustment for one (1) year unless it is clearly demonstrated that:

- A. Circumstances affecting the property that is the subject of the application have substantially changed, or;
- B. New information is available that could not, with reasonable diligence, have been

presented at a previous hearing. A request to be heard on this basis must be filed with the Community Development Director within thirty (30) days of the original decision, or;

- C. Nothing contained in this Section shall preclude the submission of a substantially new application as determined by the Community Development Director and the City Engineer.

17.05.090 AMENDMENT TO APPROVED LAND DEVELOPMENT APPLICATIONS.

The Community Development Director may authorize minor deviations from the original approved application, including approvals by the City Council. The Community Development Director shall determine whether amendments to and modifications of approved land development applications are minor or major. Major deviation shall be subject to review and approval by the city decision making body that approved the original application, provided an application that was approved by City Council may be referred to the Planning Commission first for a recommendation pursuant to Section 17.05.070. A major deviation is one that exceeds one or more of the following thresholds:

- A. Increase in the number of residential lots or dwelling units;
- B. Reduction in the area of open space by more than ten (10) percent, or a reduction in the quality of open space, as determined by the Community Development Director;
- C. Increase in permitted floor area by more than ten (10) percent for any single non-residential building;
- D. Modification to any site design or lot development standard in this Title;
- E. Any change to a requirement imposed through conditions of approval;
- F. Modifications to street standards or other public improvement requirements shall be subject to approval by the City Engineer, pursuant to the City of Fruita Engineering Design Criteria and Construction Specifications. Where a modification potentially affects a project's compliance with this Title, or any condition of approval related to this Title imposed through the original approval, the request shall be subject to review and approval by the Community Development Director. The Community Development Director may refer the request to the Planning Commission and City Council.

Chapter 17.06
ANNEXATIONS

Sections:

- 17.06.010 Purpose and Applicability**
- 17.06.020 Application**
- 17.06.030 Annexation Impact Report**
- 17.06.040 Criteria and Decision for Annexations not requiring an Election**
- 17.06.050 Zoning of Annexed Properties**

17.06.010 PURPOSE AND APPLICABILITY. In accordance with State Statutes, land may be annexed or disconnected from the city as deemed appropriate by the City Council in accordance with this Chapter and the Municipal Annexation Act of 1965, as amended, Sections 31-12-101 et. seq., C.R.S.

17.06.020 APPLICATION. Application requirements and processing procedures for annexations or disconnection shall comply with those described in the Municipal Annexation Act of 1965, as amended, Sections 31-12-101 et. seq., C.R.S. Applications shall be made in such form and in such numbers as required by the Community Development Director. If, in the opinion of the Community Development Director, existing right-of-way adjacent to the land requested to be annexed should be annexed at the same time, the applicant shall submit a legal description, prepared by a registered land surveyor, of the subject right-of-way with the application for annexation. Additionally, annexation application shall be accompanied by a land use application for the subject property such as a Subdivision, Site Design Review or Conditional Use Permit or an annexation agreement.

17.06.030 ANNEXATION IMPACT REPORT.

Any petition for annexation not requiring an election shall be accompanied by an annexation impact report, which contains the following elements:

- A. Plans of the municipality for extending to or otherwise providing for municipal services;
- B. The City of Fruita's anticipated financing of the extension of services;
- C. The special districts included in the territory to be annexed;
- D. The effect of annexation on the public school district system including the estimated number of students generated and capital construction required to educate each student;

- E. Traffic/pedestrian/bicycle impacts;
- F. Wastewater, water, drainage, and irrigation impacts, and;
- G. Other relevant information as required by the Community Development Department.

17.06.040 CRITERIA AND DECISION FOR ANNEXATIONS NOT REQUIRING AN ELECTION.

A. Criteria.

- 1. If the subject property is located within the city's Urban Growth Area (UGA) as defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria:
 - a. The annexation meets the requirements of the State Statutes;
 - b. The area is or can be efficiently served by city utilities and capital investments, including water, sewer, parks, drainage systems and streets;
 - c. The area is contiguous with existing urban development;
 - d. The area is or can be efficiently served by police and other municipal services;
 - e. The development is consistent with community goals, principles, and policies as expressed in the Fruita Community Plan;
 - f. The annexation is supported by local residents and landowners;
 - g. Water and ditch rights can be provided, as applicable, in accordance with city policies;
 - h. The area will have a logical social and economic association with the city, and;
 - i. The area meets or can meet the existing infrastructure standards set forth by the city.

2. If the subject property is located in the Growth Management Area (GMA) as defined by the Fruita Community Plan, annexation may be approved only after considering the following criteria in addition to the criteria required to be considered for property in the Urban Growth Area:
 - a. The area would have a positive net fiscal benefit to the community;
 - b. The area is necessary to accommodate an activity that cannot be reasonably accommodated on lands within the existing UGA boundary;
 - c. The area would allow for the logical and concurrent extension of urban services (water, streets, sewer, etc.);
 - d. The area would offer a desirable new “edge” to the community, and;
 - e. The area discourages a sprawling development pattern and contributes to the Community Vision as described in the Fruita Community Plan.
3. Annexation of property outside both the UGA and GMA should only be considered for extraordinary circumstances.

B. Decision. The Community Development Director shall make recommendations to the Planning Commission and the City Council on any petition for annexation not requiring an election and any application for the disconnection of territory. Following public hearings as required by law, the City Council shall approve, conditionally approve or disapprove all petitions for annexation not requiring an election and all applications for the disconnection of municipal territory. The city retains complete discretion and authority to approve or deny an annexation petition for any reason or to require an annexation agreement as a condition of approval of any annexation.

17.06.050 ZONING OF ANNEXED PROPERTIES. Land annexed to the city shall be zoned in accordance with the City of Fruita's zoning regulations within ninety (90) days following annexation of the land. The city’s acceptance of a land use application or issuance of building permit may be contingent upon approval of city zoning.

Chapter 17.07
ZONING - USES AND GENERAL REQUIREMENTS

Sections:

17.07.010	Establishment of Zones
17.07.020	Incorporation of Official Zoning Map
17.07.030	Zoning Names
17.07.040	Zoning Boundaries
17.07.050	Application of Zoning Regulations
17.07.060	Zoning Uses and Requirements
17.07.070	Supplemental Zoning Regulations and Standards
17.07.080	Land Use Compatibility Criteria
17.07.090	Legal Non-Conforming Uses, Structures, and Lots

17.07.010 ESTABLISHMENT OF ZONES. To carry out the purposes of the Master Plan and the purposes and provisions of this Title, the incorporated area of the City of Fruita is hereby divided into the following zones for the purposes set forth below:

- A. Agricultural Residential (AR). The purpose of the AR zone is to allow low density rural residential and agricultural uses, to preserve and enhance the rural character of the outlying areas of Fruita, and discourage inappropriate or premature urban development. The AR zone allows one dwelling unit per ten (10) gross acres.

- B. Rural Estate (RE). The purpose of the RE zone is to preserve the natural and agricultural landscape as a transition between the Rural Residential (RR) zone, AR zone, and the community separator through minimum requirements and incentives for rural land preservation and clustered residential lots. The RE zone allows one (1) dwelling unit per three (3) gross acres. A density of one (1) dwelling unit per two (2) gross acres may be allowed pursuant to the density bonus provisions of Chapter 17.08 and the transferable development rights/credits provisions under Chapter 17.09.

- C. Rural Residential (RR). The purpose of the RR zone is to allow low density residential uses as a transition between the Community Mixed Use (CMU) and RE zones. The RR zone allows one (1) dwelling unit per one (1) gross acre. A density of two (2) dwelling units per gross acre may be allowed pursuant to the density bonus provisions of Chapter 17.08 and the transferable development rights/credits provisions under Chapter 17.09.

- D. Community Residential (CR). The purpose of the CR zone is to allow for moderate density single-family neighborhoods with the inclusion of other housing types such as attached units (apartments and townhouses).

- E. Large Lot Residential (LLR). The purpose of the LLR zone is to allow larger lot developments in the same areas as the CR zone and other areas as appropriate. The LLR zone allows a maximum density of three (3) dwelling units per acre.
- F. South Fruita Residential (SFR). The purpose of the SFR zone is to accommodate a residential use at a density of two (2) dwelling units per gross acre; a density of up to three (3) dwelling units per gross acre may be allowed pursuant to the density bonus provisions of Chapter 17.08 and the transferable development rights/credits provisions under Chapter 17.09.
- G. Downtown Mixed Use (DMU). The purpose of the DMU zone is to maintain and enhance downtown as a vibrant, pedestrian-oriented commercial and residential area and as the civic heart of the community. Mixed use development, such as commercial on the ground floor and residential above the ground floor is encouraged within this zone. The intent of this zone with regard to housing is to allow existing residential uses and provide housing options within walking distance of commercial and civic uses without compromising the integrity of the downtown commercial core. Where the DMU zone allows housing, a residential density of twelve (12) dwelling units per gross acre is permitted.
- H. Community Mixed Use (CMU). The CMU zone implements the Community Mixed Use designation in the Fruita Community Plan. This zone is intended to establish walkable neighborhoods that are residential in scale and character, integrating a variety of housing, open spaces, and community services. The CMU zone has a required minimum density of two (2) dwelling units per gross acre to ensure the efficient and cost-effective provisions of urban infrastructure. The zone allows up to five (5) dwelling units per gross acre pursuant to the density bonus provisions of Chapters 17.08 and the transferable development rights/credits provisions under Chapter 17.09.
- I. Monument Preservation (MP). The MP zone is intended to provide a recreational and environmental buffer between the Colorado National Monument and Bureau of Land Management lands, and urban development with low intensity uses that preserve open space quality. The MP zone allows a maximum density of one (1) dwelling unit per two (2) gross acres.
- J. Tourist Commercial (TC). The TC zone provides for development and enhancement of commercial areas and tourist-oriented services in the vicinity of State Highway 340. Development in the TC zone must meet context-sensitive design standards for architecture and site design in this area.
- K. General Commercial (GC). The GC zone is intended to accommodate commercial development in appropriate areas with appropriate access, landscaping, frontage improvements, setbacks, screening and multi-modal access and connectivity.

- L. Limited Industrial and Research and Development (LIRD). The purpose of the LIRD zone is to encourage non-polluting industrial and research and development activities designed to meet acceptable state and locally established standards for noise, dust, effluent (e.g., sewage pre-treatment), odor, and other impacts typically associated with industrial uses.
- M. River Corridor (RC). The purpose of the RC zone is to protect the public health, safety and welfare by avoiding development in areas prone to natural hazards such as floods and erosion. Through the preservation of floodplains and open space, in compliance with the Federal Emergency Management Agency's National Flood Insurance Program, this zone seeks to minimize the risk of damage to life and property and may protect valuable natural resources along the Colorado River and other streams, washes, creeks and watercourses within the city.
- N. Planned Unit Development (PUD). A PUD zone provides a flexible, performance-based alternative to standard development requirements where adjustments to some of the standard requirements of this Title may be permitted in order to produce a development that is superior in its design and functionality to that which would result from the strict application of the standards under a non-PUD proposal. Applications for PUD approval must demonstrate that the proposal is consistent with the intent of the city's Master Plan and equally or better meets the intent of the design standards for which adjustment is sought.
- O. Community Services and Recreation (CSR). The purpose of the CSR zone is to provide public and private recreational land, facilities, schools, fire stations, libraries, fairgrounds and other public and quasi-public lands and buildings. The zone includes open space areas, which are set aside to prevent environmental damage to sensitive areas and to limit development in areas that are unsuitable for development due to flooding or geologic hazards. The CSR zone may be applied to parks, outdoor recreation facilities, open space corridors, environmental areas, trails, recreational facilities, and similar areas. The CSR zone helps implement the open space, trails and parks policies of the city's Master Plan.

17.07.020 INCORPORATION OF OFFICIAL ZONING MAP. The location and boundaries of the zones established by this Chapter are shown on the "Official Zoning Map" of the City of Fruita. Said Official Zoning Map, together with all data shown thereon and all amendments thereto, is, by reference, hereby incorporated into this Chapter. Changes in zones shall be made according to the requirements of this Title.

17.07.030 ZONING NAMES. The zoning names in effect before the effective date of this Title (April 3, 2009) are converted as follows. Zones not listed are either entirely new zones or the name of the zone has

not changed.

<u>OLD ZONE</u>	<u>NEW ZONE</u>
RA (Rural and Agricultural)	RE (Rural Estate)
DCRD (Downtown Commercial & Residential Design)	DMU (Downtown Mixed Use)
TCD (Tourist Commercial Design)	TC (Tourist Commercial)
LLC (Large Lot Commercial)	GC (General Commercial)

17.07.040 ZONING BOUNDARIES. Except where otherwise indicated, zoning boundaries shall follow municipal corporation limits, section lines, lot lines, centerlines of watercourses, and right-of-way centerlines or extensions thereof. In unsubdivided land or where a zoning boundary divides a lot or parcel, the location of such boundary, unless indicated by dimensions, shall be determined by scale of the Official Zoning Map. Where a zoning boundary coincides with a right-of-way line and said right-of-way is subsequently abandoned, the zoning boundary shall then follow the zoning of the property to which the vacated right-of-way is connected. Land not part of public rights-of-way and which is not indicated as being in any zoning boundary shall be considered to be included in the most restrictive adjacent zone, even when such zone is separated from the land in question by a public right-of-way.

17.07.050 APPLICATION OF ZONING REGULATIONS. Except as hereinafter provided, within the municipal boundaries of the City of Fruita:

- A. No building or structure shall be erected or placed and no existing building or structure shall be moved, removed, altered or extended, nor shall any land, building or structure be used for any purpose or in any manner other than as provided among the uses listed in Section 17.07.060(F) (Land Use/Zoning Table) and the zoning requirements and regulations for the zone in which such land, building or structure is located.
- B. No building or structure shall be erected or placed nor shall any existing building or structure be moved, removed, altered, replaced or extended, nor shall any open space surrounding any building or structure be encroached upon or reduced in any manner except in conformity with the lot area, lot coverage, setback and height provisions set forth in subsection 17.07.060(I) (Density and Dimensional Standards Table) for the zone in which such land, building or structure is located.

- C. No lot area, frontage, yard or other open space or parking space provided around any building or structure for purposes of compliance with provisions of this Title shall be considered as providing lot area, frontage, yard or other open space for any other building or structure on the same lot or on any other lot.
- D. Uses permitted by this Title also may be subject to provisions of other applicable city, county, or state laws and regulations, and where the provisions of this Title impose a greater restriction than required by other land use regulations, the provisions of this Title shall govern.
- E. In their application and interpretation, the provisions of this Title shall be considered minimum requirements. Nothing herein shall impair the obligations of or interfere with private agreements or covenants in excess of the minimum requirements. Where this Title imposes a greater restriction than that imposed by existing contract, covenant or deed, the provisions of this Title shall control.
- F. For developments without access to the city's sanitary sewer system (farther than four hundred [400] feet away), the minimum lot size is required to be no less than three (3) acres. Larger lots may be required for certain non-residential land uses.

17.07.060 ZONING USES AND REQUIREMENTS. All combinations of allowed uses and development standards may not be appropriate at a particular location within a zone, even if a use is designated as an allowed use in this Section. Any proposed land use must be compatible with the uses and site design of surrounding properties and meet the design standards set forth in this Title.

- A. Administrative Approvals. Administrative approvals include: Planning Clearances including Planning Clearances for a change in use to a use that is designated as allowed outright under Section 17.07.060; home occupations; Minor Subdivisions; Site Design Review (with no Adjustment) ; Temporary Use Permits; Sign Permits, and; final plats (not including subdivision improvements agreements).
- B. Public Hearing required for some Planning Clearances. Where the proposed use is designated a Conditional Use, or a use requiring Site Design Review with Adjustment, or is not itemized in the Use/Zone Matrix under Section 17.07.060 and is not deemed by the Community Development Director to be similar to an allowed use, the Director shall refer the land use request to public hearings, pursuant to Section 17.05.070.
- C. Schedule of Allowed Uses. The Land Use/Zone Table in subsection F below indicates Allowed Uses and Conditional Uses. Definitions and examples of those uses are contained in Chapters 17.03 and 17.04. Tables specifying allowable development densities and the requirements for

minimum lot area, minimum setbacks, maximum building height and maximum lot coverage in each of the zones is subsection I below.

D. Key to Allowed Uses. Uses may be allowed outright, allowed conditionally, or allowed subject to special use standards, as follows:

* - Means not allowed.

A - Means allowed outright in the indicated zone, subject to compatibility with surrounding properties, per Section 17.07.080, and special and supplementary zoning regulations and standards.

C - Allowed by Conditional Use Permit only. (See Conditional Use Permit Section 17.13.040).

E. Key to Zones:

AR	Agricultural Residential	DMU	Downtown Mixed Use
RC	River Corridor	MP	Monument Preservation
RR	Rural Residential	TC	Tourist Commercial
CR	Community Residential	GC	General Commercial
LLR	Large Lot Residential	LIRD	Limited Industrial Research & Development
RE	Rural Estate	CSR	Community Services Recreation
SFR	South Fruita Residential		
CMU	Community Mixed Use		

Planned Unit Development (PUD) zone uses are specified in each PUD Guide.

Section 17.07.060 (F)

LAND USE/ZONING TABLE

	AR	RE	RR&LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
RESIDENTIAL USES													
Household Living													
Business Residence	*	*	*	*	A	*	A	*	A	A	A	*	*
Rooming/Boarding House	*	*	*	*	*	*	C	*	C	*	*	*	*
Dwelling, Single-Family Attached	C	C	A	A ²	A	A	A	*	*	*	*	*	*
Dwelling, Single-Family Detached	A	A	A	A	A	A	A	A	*	*	*	A	*
Duplex	*	*	*	A ²	A	*	A	*	*	*	*	*	*
Dwelling, Multi-Family	*	*	*	A ²	A	*	A	*	A	A	*	*	*
Manufactured Housing Park (See Chapters 5, 23 & 25)	*	*	*	C	C	*	*	*	*	*	*	*	*
Mobile Home Park (See Chapters 23 & 25)	*	*	*	C	C	*	*	*	*	*	*	*	*
Manufactured Home (See Chapter 23)	C	C	C	C	C	C	C	C	*	*	*	C	*
Mobile Home (See Chapter 23)	*	C	C	C	C	C	C	C	*	*	*	C	*
Accessory Dwelling Unit (See Section 17.07.070.C)	A	A	A	A	A	A	A	A	*	*	*	C	*
Dwelling, Caretaker	A	*	*	*	*	*	*	*	A	A	A	*	*
Home Occupation	Home Occupations are permitted as accessory to any permitted residential use, subject to the Home Occupation standards in Section 17.07.070 (B)												
Family Daycare, Family Foster Home	A	A	A	A	A	A	A	A	C	C	C	C	*
Group Living													
Small Group Living Facility/State Licensed Residential Receiving Homes	A	A	A	A	A	A	A	A	*	*	*	A	*
Large Group Living Facility/Group Homes/Nursing Home	*	*	*	C	C	*	C	*	C	C	*	*	*
Unlimited Group Living Facility	*	*	*	C	C	*	C	*	C	C	*	*	*
INSTITUTIONAL & CIVIC													
College & Vocational Schools													
Colleges and Universities	*	*	*	C	C	C	C	*	C	C	C	*	C

Section 17.07.060 (F)

LAND USE/ZONING TABLE

	AR	RE	RR&LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
INSTITUTIONAL & CIVIC (continued)													
College & Vocational Schools (continued)													
Vocational, Technical & Trade	*	*	*	C	C	C	A	*	A	A	A	*	C
All Other Education Institutions	*	*	*	C	C	C	A	*	A	A	A	*	C
Community Service & Government Offices													
Public Building Uses	C	C	C	C	C	C	A	C	A	A	A	C	C
Museum, Art Galleries, Opera Houses	C	C	C	C	C	C	A	C	A	A	C	C	C
Other Community Services	C	C	C	C	C	C	A	C	A	A	C	C	C
Day Care													
Childcare Facility, Nursery School	C	C	C	C	C	C	A	C	A	A	*	C	*
Detention Facilities													
Jails, Honor Camps, Reformatories, Detention Center	*	*	*	*	*	*	*	*	*	C	C	*	C
Community Corrections Facility	*	*	*	*	*	*	*	*	*	C	C	*	C
Medical Centers													
Medical and Dental Clinics	*	*	*	*	C	*	A	*	A	A	A	*	C
Counseling Centers (nonresidential)	*	*	*	*	*	*	A	*	A	A	A	*	C
Hospital/Mental Hospital	*	*	*	*	*	*	C	*	C	C	C	*	C
Physical and Mental Rehabilitation (resident)	*	*	*	*	*	*	C	*	C	C	C	*	C
All Other	*	*	*	*	*	*	C	*	C	C	C	*	*
Parks & Open Space Areas													
Cemetery	A	A	A	A	C	A	A	A	A	A	A	A	A
Golf Course or Golf Driving Range	C	C	C	C	C	C	*	C	A	A	A	A	A
Campground, Primitive (See Chapter 27)	C	*	*	*	*	*	*	*	C	C	*	C	C
Parks, Lakes, Reservoirs, Greenways	A	A	A	A	A	A	A	A	A	A	A	A	A

Section 17.07.060 (F)

LAND USE/ZONING TABLE

All Other	C	C	C	C	C	C	C	C	C	C	C	C	C	A
	AR	RE	RR&LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR	
INSTITUTIONAL & CIVIC (continued)														
Religious Institutions/Places of Worship														
All	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Funeral Homes/Mortuaries/Crematories														
All	*	*	*	*	*	*	C	*	C	C	C	*	*	
Safety Services														
Public Safety and Emergency Response Services	C	C	C	C	C	C	C	C	C	C	C	C	C	A
Schools														
Boarding Schools	C	C	C	C	C	C	C	C	C	C	*	*	C	
Elementary Schools	A	A	A	A	A	A	A	A	A	A	*	A	A	
Secondary Schools	A	A	A	A	A	A	A	A	A	A	*	A	A	
Utility, Basic														
Utility Service Facilities, (Underground)	A	A	A	A	A	A	A	A	A	A	A	A	A	A
All Other Utility, Basic	C	C	C	C	C	C	C	C	C	C	C	C	C	A
Utility Corridors														
Transmission Lines (above ground)	C	C	C	C	C	C	C	C	C	C	C	C	C	A
Transmission Lines (under ground)	C	C	C	C	C	C	C	C	C	C	C	C	C	A
Utility Treatment, Production or Service Facility	*	*	*	*	*	*	C	*	C	C	C	C	C	C
All Other	C	C	C	C	C	C	C	C	C	C	C	C	C	C
COMMERCIAL														
Entertainment Event, Major														
Indoor Facilities	*	*	*	*	C	*	A	C	A	A	C	C	C	C
Outdoor Facilities	*	*	*	*	C	*	A	C	A	A	C	C	C	C
Lodging														

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LAND USE/ZONING TABLE

Hotels and Motels, Lodges, Transient Housing	*	*	*	*	*	*	A	*	A	A	A	*	*
Bed and Breakfast (1-4 guest rooms) See Section 17.07.060 (A)	C	C	C	C	C	C	A	C	A	A	*	C	*
	AR	RE	RR& LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
COMMERCIAL (continued)													
Office													
General Offices	*	*	*	*	A	*	A	*	A	A	A	*	*
Office with Drive-in Facilities	*	*	*	*	C	*	C	*	A	A	A	*	*
Parking, Commercial													
All, when not accessory to a permitted use	*	*	*	*	C	*	C	*	A	A	A	*	A
Recreation & Entertainment, Outdoor													
Recreational Vehicle Parks, Resorts and Campgrounds (See Chapter 27)	C	*	*	*	*	*	*	C	C	C	*	C	C
Resort Cabins and Lodges	C	*	*	*	*	*	*	C	C	C	*	C	C
Swimming Pools, Community	C	C	C	C	C	C	C	C	C	C	C	C	A
Shooting Ranges, Outdoor	*	*	*	*	*	*	*	*	*	*	C	C	C
Amusement Park	*	*	*	*	*	*	*	*	C	C	*	*	C
Drive-in Theater	*	*	*	*	*	*	*	*	C	C	*	*	C
Miniature Golf	*	*	*	*	C	*	A	C	A	A	*	*	A
Riding Academy, Roping or Equestrian Area	C	C	C	C	C	C	*	C	C	C	*	C	C
Zoo	*	*	*	*	*	*	*	C	C	C	*	C	C
All other Outdoor Commercial Recreation	C	C	C	*	C	C	C	C	A	A	A	A	A
Recreation & Entertainment, Indoor													
Health Club	*	*	*	C	C	*	A	*	A	A	A	*	A
Movie Theater	*	*	*	*	*	*	A	*	A	A	A	*	*
Skating Rink	*	*	*	*	C	*	A	*	A	A	A	*	A
Arcade	*	*	*	*	C	*	A	*	A	A	A	*	*
Shooting Ranges, Indoor	*	*	*	*	*	*	*	*	C	C	A	*	C

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LAND USE/ZONING TABLE

All Other Indoor Recreation	*	*	*	*	C	*	A	*	A	A	A	*	A
Retail Sales & Service													
Sexually Oriented Businesses (See Chapter 35)	*	*	*	*	*	*	*	*	*	C	C	*	*
	AR	RE	RR&LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
COMMERCIAL (continued)													
Retail Sales & Service (continued)													
Alcohol Sales, Retail	*	*	*	*	C	*	A	*	A	A	A	*	*
Bar/Nightclub	*	*	*	*	C	*	A	*	A	A	A	*	*
Animal Clinic/Hospital/Boarding/Sales, Indoor/Kennel	C	*	*	*	C	*	A	C	A	A	A	*	*
Animal Clinic/Hospital/Boarding/Sales, Outdoor	C	*	*	*	*	*	C	C	C	C	C	*	*
Delivery and Dispatch Services (Vehicles on-site)	*	*	*	*	*	*	C	*	C	A	A	*	*
Drive-Up/Drive-Through Facilities (with permitted use)	*	*	*	*	*	*	C	*	A	A	A	*	*
Drive-Up/Drive-Through Facilities (not in conjunction with a permitted use; freestanding)	*	*	*	*	*	*	*	*	A	A	A	*	*
Food Service, Catering	*	*	*	*	A	*	A	*	A	A	A	*	*
Food Service, Restaurant (including alcohol sales)	*	*	*	*	C	*	A	*	A	A	A	*	*
Food Service, Restaurant (Not including alcohol sales)	*	*	*	*	A	*	A	*	A	A	A	*	*
Farm Implement/Equipment Sales/Service	*	*	*	*	*	*	A	*	A	A	A	*	*
Flea Market	*	*	*	*	*	*	C	*	C	C	C	*	*
Feed Store	*	*	*	*	*	*	C	*	C	A	A	*	*
Fuel Sales, Automotive/Appliance	*	*	*	*	*	*	A	*	A	A	A	*	*
Fuel Sales, Heavy Vehicle	*	*	*	*	*	*	A	*	A	A	A	*	*
General Retail Sales, Indoor Operations, Display and Storage	*	*	*	*	A	*	A	*	A	A	A	*	*
General Retail Sales, Outdoor Operations, Display or Storage	*	*	*	*	C	*	A	*	A	A	A	*	*

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LAND USE/ZONING TABLE

Nursery/Greenhouse, Retail (not Agriculture)	*	*	*	*	C	*	A	*	A	A	A	*	*
Manufactured Building Sales and Service	*	*	*	*	*	*	C	*	C	A	A	*	*
Rental, Home Oriented, Indoor Display/Storage	*	*	*	*	C	*	A	*	A	A	A	*	*
Rental, Heavy Equipment, Outdoor Display/Storage	*	*	*	*	*	*	A	*	A	A	A	*	*
	AR	RE	RR&LLR	CR	CMU¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
COMMERCIAL (continued)													
Retail Sales & Service (continued)													
Repair, Small Appliance/Small Engine	*	*	*	*	C	*	A	*	A	A	A	*	*
Repair, Large Appliance	*	*	*	*	*	*	A	*	A	A	A	*	*
Personal Services	*	*	*	*	A	*	A	*	A	A	A	*	*
All Other Retail Sales and Service	*	*	*	*	C	*	A	*	A	A	A	*	*
Storage/Self Service Storage													
Mini Warehouse/Self Service Storage Facility	*	*	*	*	*	*	*	*	C	A	A	*	*
Outdoor Storage (Vehicles, Equip. Etc.)	*	*	*	*	*	*	*	*	C	A	A	*	*
Vehicle Repair, Except Quick Vehicle Servicing													
Auto and Light Truck Mechanical Repair Shop	*	*	*	*	*	*	C	*	A	A	A	*	*
Body Shop	*	*	*	*	*	*	C	*	A	A	A	*	*
Truck Stop/Travel Plaza/Truck Parking Area	*	*	*	*	*	*	*	*	C	C	C	*	*
Tire Recapping and Storage	*	*	*	*	*	*	*	*	C	C	C	*	*
All Other Vehicle Repair	*	*	*	*	*	*	C	*	A	A	A	*	*
Vehicle Service, Limited: Quick Vehicle Servicing													
Car Wash	*	*	*	*	*	*	C	*	A	A	A	*	*
Gasoline Service Station	*	*	*	*	*	*	C	*	A	A	A	*	*
Quick Lube	*	*	*	*	*	*	C	*	A	A	A	*	*
All Other Vehicle Service, Limited	*	*	*	*	*	*	C	*	A	A	A	*	*
INDUSTRIAL													
Indoor Operations & Storage													

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LAND USE/ZONING TABLE

Industrial Service	*	*	*	*	C	*	C	*	A	A	A	*	*
Assembly	*	*	*	*	C	*	C	*	C	A	A	*	*
Food Products	*	*	*	*	C	*	C	*	C	A	A	*	*
Manufacturing/Processing	*	*	*	*	C	*	C	*	C	A	A	*	*
All Other	*	*	*	*	C	*	C	*	C	C	A	*	*
	AR	RE	RR&LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
INDUSTRIAL (continued)													
Indoor Operations & Outdoor Storage													
Industrial Service	*	*	*	*	*	*	C	*	C	C	A	*	*
Assembly	*	*	*	*	*	*	C	*	*	C	A	*	*
Food Products	*	*	*	*	*	*	C	*	C	C	A	*	*
Manufacturing/Processing	*	*	*	*	*	*	C	*	*	C	A	*	*
All Other	*	*	*	*	*	*	C	*	C	C	C	*	*
Outdoor Operations & Storage													
Industrial Service	*	*	*	*	*	*	*	*	*	C	A	*	*
Assembly	*	*	*	*	*	*	*	*	*	C	A	*	*
Food Products	*	*	*	*	*	*	*	*	*	C	A	*	*
Manufacturing/Processing	*	*	*	*	*	*	*	*	*	C	A	*	*
All Other	*	*	*	*	*	*	*	*	*	C	C	*	*
Junk Yard													
Junk Yard	*	*	*	*	*	*	*	*	*	*	C	*	*
Impound Lot													
Impound Lot	*	*	*	*	*	*	*	*	C	C	C	*	*
Heavy Equipment Storage/Pipe Storage/Similar Storage													
All	*	*	*	*	*	*	*	*	*	C	C	*	*
Warehouse & Freight Movement													
Indoor Operations, Storage and Loading	*	*	*	*	*	*	C	*	A	A	A	*	*
Indoor Storage with Outdoor Loading Docks	*	*	*	*	*	*	C	*	C	A	A	*	*

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LAND USE/ZONING TABLE

Outside Storage or Loading	*	*	*	*	*	*	*	*	C	C	A	*	*
Gas or Petroleum Storage	*	*	*	*	*	*	*	*	*	C	C	*	*
Sand or Gravel Storage	*	*	*	*	*	*	*	*	*	C	C	*	*
All Other	*	*	*	*	*	*	*	*	*	C	C	*	*
	AR	RE	RR&LLR	CR	CMU¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
OTHER													
Waste Related Uses													
Non-Hazardous Waste Transfer	*	*	*	*	*	*	*	*	*	C	C	*	*
Medical/Hazardous Waste Transfer Station	*	*	*	*	*	*	*	*	*	C	C	*	*
Solid Waste Disposal Sites	*	*	*	*	*	*	*	*	*	*	C	*	*
Recycling Collection Points	*	*	*	*	*	*	*	*	*	C	C	*	C
All Other Waste Related/Recycling Center	*	*	*	*	*	*	*	*	*	*	C	*	C
Wholesale Sales													
Wholesale Business (No highly flammable materials/liquids)	*	*	*	*	*	*	C	*	C	A	A	*	*
Agri Business	C	C	C	*	*	*	C	*	C	C	C	*	*
All Other Wholesale Uses	*	*	*	*	*	*	C	*	C	C	C	*	*
Agricultural													
Animals Agricultural; Confinement	C	*	*	*	*	*	*	*	*	*	C	*	C
Dairy	C	*	*	*	*	*	*	*	*	*	C	*	C
Winery	C	C	*	*	*	*	C	C	C	C	A	C	C
Confined Animal Feeding Operation, Feedlot	C	*	*	*	*	*	*	*	*	*	C	*	*
Forestry/Silviculture, Commercial	C	*	*	*	*	*	*	*	C	C	A	C	*
Pasture, Commercial	A	*	*	*	*	*	*	C	A	A	A	A	A
All Other Agriculture	A	A	*	*	*	*	*	A	*	*	A	A	A
Aviation or Surface Passenger													
Airports/Heliports	*	*	*	*	*	*	*	*	C	C	C	C	C

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LAND USE/ZONING TABLE

Bus/Commuter Stops	A	A	A	A	A	A	A	A	A	A	A	A	A
Bus/Railroad Depot	*	*	*	*	C	*	C	*	A	A	A	*	A
Helipads	*	*	*	*	*	*	*	*	C	C	C	C	C
All Other Aviation or Surface Passenger Terminal	*	*	*	*	C	*	C	*	C	C	C	C	C
	AR	RE	RR&LLR	CR	CMU ¹	SFR	DMU	MP	TC	GC	LIRD	RC	CSR
OTHER (continued)													
Mining (See Chapter 31)													
Oil or Gas Drilling	C	*	*	*	*	*	*	C	*	*	C	C	*
Sand or Gravel Extraction or Processing	C	*	*	*	*	*	*	C	*	C	C	C	*
All Other Mining, Extraction	*	*	*	*	*	*	*	C	*	C	C	C	*
Telecommunications Facilities													
Telecommunications Facilities, Towers and Support Structures	C	C	C	C	C	C	C	C	C	C	C	C	C

¹ Non-residential uses in the CMU zone are subject to the supplemental zoning district standards in Section 17.07.070 (J).

²Duplex, multi-family and attached single family developments in the CR zone are permitted only as a percentage of a detached single-family residential development. See the Density and Dimensional Standards Table in Section 17.07.060(I).

G. Uses Not Itemized in Land Use/Zoning Table. When a use is proposed and no zone allows for such use under the Land Use/Zoning Table above, the applicant may request from the Community Development Department a determination of a zone in which the use may be allowed. The applicant shall submit a written request, which describes the particular use proposed. The use may be deemed an Allowed Use or a Conditional Use upon the finding of the following:

1. Such use is appropriate to the physiographic and general environmental character of the zone to which it is added;
2. Such use does not create any more hazards to, or alteration of, the natural environment than the

minimum amount normally resulting from the other permitted uses, or uses conditionally allowed, in the zone to which it is added, as applicable;

3. Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences or more traffic hazards than the minimum amount normally resulting from the other uses permitted in the zone to which it is added;
4. Such use is generally consistent with the uses existing and permitted in the zone to which it is added; and
5. Such use is in conformance with the goals, policies and Master Plan of the city and the purposes of this Title.

H. Schedule of Density/Height/Bulk/Location Requirements in Zones.

1. The following standards apply to all uses and development, except as modified pursuant to Chapter 17.08 Density Bonuses, Chapter 17.09 Transferable Development Rights/Credits, or Chapter 17.17 Planned Unit Developments.
2. Maximum density may not be achievable on every lot or parcel, as the development must conform to applicable setbacks, coverage, parking, drainage, public improvements, landscaping and other code requirements including density bonus requirements.
3. Connection to the city's wastewater collection and treatment system is required for all single-family residential lots smaller than three (3) acres in size. Larger lots may be required for multi-family and non-residential developments that do not connect to the city's wastewater collection and treatment system. All uses with existing individual sewage disposal systems that require repair or replacement, or are part of a larger development plan and are within four hundred (400) feet of the existing city wastewater collection system, as measured to the closest property line, shall connect to the city system. All property to be annexed with existing land uses using individual sewage disposal systems must connect to the city wastewater collection system if they are within four hundred (400) feet or will be within four hundred (400) feet of a city wastewater collection system once the development to be annexed is completed.
4. Standards containing a slash (x/y) indicate standards for primary buildings (x) and accessory buildings (y).
5. Structures lawfully established prior to the effective date of this Code may continue pursuant to Section 17.07.090.

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DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT*	MAX LOT COVERAGE
Agriculture Residential (AR)	10 acres/DU	3 acres	50'	50'	50'	35'/25'	20%
Rural Estate (RE)	3 acres/DU, or 2 acres/DU	2 acres	25'	10'	20'	35'/16'	20%
Rural Residential (RR)	1 DU/acre or 2 DU/acre	20,000 sf	25'	10'	20'	35'/16'	20%
Community Residential (CR)**	No Specific Standards	7,000 sf	25' for garage openings; 20' for elevations other than garage opening; except 15' for buildings with alley access only or 15' for unenclosed front porches covering at least 30% of front elevation with a 6' minimum depth	16'/6' total; 5'/3' min.	15'/3'	35'/16'	45%***
Large Lot Residential (LLR)	3 DU/acre	10,000 sf	25'	10'/5'	15'/3'	35'/16'	40%
South Fruita Residential (SFR)	2 DU/acre, or 3 DU/acre	7,000 sf	25'	10'/5'	15'/5'	35'/16'	30%
Downtown Mixed Use (DMU) – Core (as designated south of Pabor Avenue)	12 DU/acre	5,000 sf; 6,000 sf for corner lots	0', or as required per building code	0', or as required per building code	0', or as required per building code	35'/25'; or 5 stories for DU's above Commercial	90%
Downtown Mixed Use (DMU) – Outside Core	12 DU/acre	5,000 sf, except 6,000 sf corner lot; 7,000 sf detached single family with accessory dwelling; 7,500 sf duplex; 10,000 sf multi-family; 2,500 sf per each attached townhome unit	25' for garage openings; 20' for elevations other than garage opening; except 15' for mixed-use buildings, 15' for buildings with alley access, and 15' for un-enclosed front porches covering at least 30% of front	15' total; 5'/3' min.; except 0' where common wall or zero-lot line dev. allowed	15'/3'; except 0' where common wall or zero-lot line dev. allowed	35'/16'	35%; or 60% for lots with parking on rear ½ of lot and front porches on at least 30% of front elevation with a 6' minimum depth

Section 17.07.060 (I)

DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT*	MAX LOT COVERAGE
Community Mixed Use – Commercial Development, including Mixed Use Buildings	2 DU/acre; or up to 5 DU/acre	5,000 sf; 6,000 sf corner lots	elevation with a 6' minimum depth			35'/25'; or 5 stories for DU's above Commercial	60%
Community Mixed Use – Residential Development, not including Mixed Use Buildings	2 DU/acre; or up to 5 DU/acre	5,000 sf, except 6,000 sf corner lot; 7,000 sf detached single family with accessory dwelling; 7,500 sf duplex; 10,000 sf multi-family; 2,500 sf per each attached townhome unit	25' for garage openings; 20' for elevations other than garage opening; except 15' for mixed-use buildings, 15' for buildings with alley access, and 15' for un-enclosed front porches covering at least 30% of front elevation with a 6' minimum depth	15' total; 5'/3' min.; except 0' where common wall or zero-lot line dev. allowed	15'/3'; except 0' where common wall or zero-lot line dev. allowed	35'/25'	35%; or 60% for lots with parking on rear ½ of lot and front porches on at least 30% of front elevation with a 6' minimum depth
Tourist Commercial (TC) Non-residential development	Not Applicable	5,000 sf	20'	10'/10'; except 0' where common wall or zero-lot line dev. allowed	20'/10'; except 0' where common wall or zero-lot line dev. allowed	35'/25'	80%
Tourist Commercial (TC) Multi-Family residential development	Max density dictated by land area size per dwelling unit	7,000 sf per dwelling unit	25'	10'/5'	20'/20'	35'/25'	80%
General Commercial (GC) Non-residential development	Not Applicable	5,000 sf	20'	10'/5'; except 0' where common wall or zero-lot line dev. allowed	20'/5'; except 0' where common wall or zero-lot line dev. allowed	35'/25'	80%

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DENSITY AND DIMENSIONAL STANDARDS TABLE

ZONE DISTRICT	MAX RES. DENSITY (GROSS)	MIN LOT AREA	MIN FRONT/ STREET YARD	MIN SIDE YARD	MIN REAR YARD	MAX STRUCTURE HEIGHT*	MAX LOT COVERAGE
General Commercial (GC) Multi-family residential development	Max density dictated by land area size per dwelling unit	7,000 sf per dwelling unit	25'	10'/5'	20'/20'	35'/25'	80%
Limited Industrial/ Research and Development (LIRD)	Not Applicable	10,000 sf	20'	20'/10'; 0' where common wall or zero-lot line dev. allowed	20'/10'	50'/70'	80%
River Corridor (RC)	1 DU/acre	5 acres	50'	50'	50'/10'	35'/25'	5%
Monument Preservation (MP)	1 DU/2 acres	2 acres	25'	50'	20'/10'	35'/25'	20%
Community Services Recreational (CSR)	No Specific Standards						

* Accessory buildings can exceed sixteen (16) feet in height, up to the maximum height limit for the zone, when located within the primary building setbacks.

** One duplex unit or two-unit attached single family on a lot at least ten thousand (10,000) square feet in size is permitted for each ten (10) single-family detached units in the same subdivision
 One triplex or three-unit attached single family on a lot at least fifteen thousand (15,000) square feet in size for each fifteen (15) single-family detached units in the same subdivision
 One four-plex or four-unit attached single family on a lot of at least twenty thousand (20,000) square feet in size for each twenty (20) single-family detached units in the same subdivision
 For the purposes of these attached housing calculations, single-family detached units cannot be counted more than once for determining permitted attached housing units.

*** Lot coverage requirements do not apply to townhouses or condominiums, but instead are determined through the subdivision process.

17.07.070 SUPPLEMENTAL ZONING REGULATIONS AND STANDARDS. In addition to regulations

contained elsewhere in this Title, the use of land and buildings in all zones shall be governed by the following:

- A. Bed and Breakfast. Where bed and breakfast uses are allowed, they must meet the following conditions and standards:
1. Where the applicable zoning district allows bed and breakfast uses as a Conditional Use, the use must be a residential dwelling that contains no more than four (4) guest bedrooms where overnight lodging, with or without meals, is provided for compensation. Bed and Breakfast uses with more than four (4) guest bedrooms are considered hotels or motels;
 2. Kitchen and dining facilities in bed and breakfast dwellings may serve only residents and guests and shall not be operated or used for any commercial activity other than that necessary for bed and breakfast purposes;
 3. The bed and breakfast use shall not change the residential character of the dwelling if located in a residential zone or area;
 4. In residential zones (including residential developments in the CMU zone), there shall be no advertising display or other indication of the bed and breakfast use on the premises other than a sign that is in compliance with the provisions of Chapter 17.41;
 5. A minimum of one parking space per guest bedroom and resident bedroom shall be required. Screening may also be required;
 6. The bed and breakfast facility shall comply with all Building Codes adopted by the city;
 7. It shall be the responsibility of the applicant to demonstrate that the relevant subdivision's declarations, covenants, conditions or restrictions allow for a bed and breakfast use and/or associated signing; and
 8. Where a bed and breakfast use is subject to Conditional Use Permit approval, any existing or proposed uses in addition to that of a dwelling unit (e.g. home occupation, accessory dwelling unit, etc.) are considered as part of the conditional use review.
- B. Home Occupations. The purpose of this Section is to allow commercial ventures, which by the nature of the venture are appropriate in scale and intensity of use to be operated within a dwelling. Home occupations require a City of Fruita Business License and any other local, state or federal permits that may be required. Two types of home occupations are authorized by this Code: 1) Home Occupations meeting the standards of this Section, as provided below, are permitted outright; and 2) Home Occupations exceeding the criteria or standards of this Section may be permitted subject to approval of a Conditional Use Permit.
1. Outdoor Storage and Display:

- a. All materials, vehicles, inventory, products, equipment, fixtures, and activities associated with the home occupation (i.e., that exceed what is customary for a single-family residence) shall be fully enclosed in a structure that complies with applicable building and land use codes. The owner is responsible for verifying building code compliance when no Planning Clearance is required.
- b. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable materials) beyond those normally incidental to residential use is prohibited.

2. Vehicles, Parking and Traffic:

- a. The home occupation site shall not be used as a dispatch for employees or vehicles to other locations beyond that which is customary for a residential use.
- b. There shall be no commercial vehicle deliveries to the home occupation during the hours of 9:00 p.m. to 7:00 a.m.
- c. There shall be no more than one (1) client or customer vehicle at any one time and no more than eight (8) per day at the home occupation site.
- d. The home occupation shall not adversely affect traffic flow and parking in the neighborhood.

3. Business Hours. There shall be no restriction on business hours, except that clients or customers are permitted at the home occupation from 7:00 a.m. to 9:00 p.m. only, Monday through Friday.

4. Prohibited Home Occupation Uses:

- a. There shall be no advertising display, signage, or other indication of the home occupation on the premises other than that which is allowed by the applicable zone for residential uses as provided for in the Sign Code in Chapter 17.41.
- b. Any activity that produces radio, TV, or other electronic interference, noise, glare, vibration, smoke, or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line is prohibited.
- c. Any activity involving on-site retail sales, including garage sales exceeding the thresholds of a temporary use, is prohibited; except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, produce or crafts produced on-site, and similar incidental items for sale by home business is allowed pursuant to this Section.
- d. Any activity that may produce wastes not typically associated with residential use of the property.

5. Enforcement. The Community Development Director or designee may visit and inspect the site of a home occupation in accordance with this chapter periodically to ensure compliance with all applicable regulations, during normal business hours, and with reasonable notice.
- C. Accessory Dwelling Units. Accessory dwelling units are permitted on all lots containing a single family dwelling unit in the Agricultural Residential (AR), Rural Estate (RE), Monument Preservation (MP) and Rural Residential (RR) zoning districts, and on lots containing a detached single family dwelling unit in other residential zoning districts provided the lot area is at least twenty (20) percent larger than the required minimum for the zone. Accessory dwelling units cannot exceed eight hundred and fifty (850) square feet of heated floor area, or fifty (50) percent of the size of the primary dwelling; whichever is larger. Accessory dwelling units can be attached or detached from the principal dwelling. Only one accessory dwelling unit is permitted per lot or parcel.
- D. Accessory Buildings (Except Accessory Dwelling Units). An accessory building shall not protrude beyond the front plane of the principal building.
- E. Design Standards And Specifications. The following standards and regulations are applicable to all projects requiring approval under the provisions of this Title:
1. Street, Road and Bridge Standards. The publications entitled “Mesa County Standard Specifications for Road and Bridge Construction” and “City of Fruita Design Criteria and Construction Specifications” shall apply to developments in all zones, except that standards and specifications published by the Colorado Department of Transportation shall apply to all State highways in all zones.
 2. Drainage and Storm Water Management. The publications entitled, “Mesa County Storm Water Management Manual” (Latest Edition), “City of Fruita Design Criteria and Construction Specifications” (Latest Edition), “International Building Code (IBC)” (Latest Edition), and “International Residential Building Code (IRBC)” shall apply to developments in all zones.
 3. Buildings. All buildings in all zones shall comply with all building codes adopted pursuant to Title 15 of the Fruita Municipal Code.
 4. Other Design Standards and Construction Specifications. All other construction and development in all zones shall comply with the publication entitled, “City of Fruita Design Criteria and Construction Specifications” (Latest Edition), and all building codes adopted by the city. Drainage shall comply with the Federal Housing Finance Agency’s lot drainage standards and must consist of either a Type ‘A’ or Type ‘B’ drainage.
 5. Conflicting Provisions. When conflicts exist between adopted codes and standards, or between adopted codes and standards and project-specific “approved for construction” drawings and specifications, the most restrictive provision shall apply. Where the City of Fruita has approved construction drawings for a project, unless superseded by state or federal law, the project-specific

“approved for construction” drawings and specifications shall control, followed by written criteria, or specifications published by other entities. Where local City of Fruita documents are silent, the most stringent external standard or specification shall apply. Codes, standards and specifications published by the Colorado Department of Transportation take precedence within State Highway rights-of-way.

- F. Exceptions to Lot Area and Dimensional Standards. Lot area and dimensions shall conform to the Schedule of Density and Dimensional Standards Table in Section 17.07.060 (I), except as follows:
1. Minimum frontage. All residential lots, including cul-de-sac lots where vehicle access is provided from the abutting street, shall have a minimum street frontage width of twenty-eight (28) feet excluding areas set aside for utility pedestal installations. Flag lots and or lots with shared driveways are permitted to have less than twenty-eight (28) feet of street frontage as determined through the subdivision review process.
 2. Utility Facilities. Electric substations, telephone switching facilities and similar limited impact facilities of a public utility shall be permitted to occupy a lot area smaller than that provided for in these regulations provided such facilities are properly screened and buffered from surrounding properties and the street.
 3. Planned Unit Developments. Lot area and dimensional standards may be modified through a Planned Unit Development approval in accordance with Chapter 17.17.
- G. Exceptions and Permitted Encroachments.
1. Height limits do not apply to chimneys, flagpoles, spires, belfries, cupolas, windmills, light poles, and similar architectural features that are not designed for occupancy.
 2. Height limits do not apply to any bulkhead, elevator; water collection, recirculation, or storage system; geothermal heating system; solar photovoltaic equipment; wind turbine; rooftop garden (green roof); or any similar structure or necessary mechanical appurtenance extending above the roof plane, provided such structure does not extend more than ten (10) feet above the highest roof plane and does not exceed more than ten (10) percent of the area of the roof where it projects more than four (4) feet above the highest roof plane.
 3. Building setback encroachment of up to three (3) feet is permitted for chimneys, roof eaves, bay windows and similar features that do not contain inhabitable floor space, stairways not to exceed six (6) feet in height or raised decks not to exceed three (3) feet in height, provided that minimum clearance of three (3) feet is maintained between the structure encroachment and all property lines and provided adequate space is reserved to comply with storm water drainage requirements.
 4. Structures used mainly for agricultural purposes in the Agricultural Residential (AR) zone (e.g., silos and barns) are exempt from the size and height limits for structures.
- H. Fences. The purpose of this Section is to ensure fences erected within the city do not impede traffic safety,

do not conflict with applicable codes, and impose no deleterious effect on any neighborhood. A Planning Clearance shall be required before erecting, moving or altering a fence in the city. Fences shall conform to the following requirements:

1. No fence shall be erected in such location upon any lot or property in a manner constituting a traffic hazard because of obstruction of view. The City of Fruita Design Criteria and Construction Specifications Manual and the City of Fruita Land Use Code shall be used as the criteria for determining compliance. No fence shall be constructed to within four (4) feet of or prevent access to any fire hydrant, utility pedestal, vault, cabinet or similar feature.
2. Fences shall be constructed of durable materials, which may include but are not limited to, wire (e.g., chain link), vinyl-coated wire, wrought iron, wood, extruded plastic (e.g., from fence manufacturer), and other materials similar in appearance and durability. Unacceptable materials that are visible to the public include: glass, tires, razor wire, barbed wire and/or concertina wire, junk, and any material that presents a public health or safety hazard. The prohibition on razor wire, barbed wire, concertina wire and similar wire fences does not apply to the LIRD zones provided that not more than three (3) strands of barbed wire atop a fence is allowed and are not counted in the height calculation. Similarly, where razor wire is permitted, only one coil of razor wire is allowed atop a fence. Electric and barbed wire fencing is allowed in zones, which allow large animals (such as horses, cows and sheep) only when properly installed and necessary to contain large animals.
3. There shall be no fence or wall erected which exceeds six (6) feet in height (except as permitted in subsection 2 above), as measured from the natural grade, except where the city has approved construction of a retaining wall; the height of the retaining wall shall not be included in the height of the fence. An increase of up to two (2) inches is allowed when spacing for drainage under a fence is needed. The Community Development Director may approve an increase in fence or wall height where a unique feature of the property or a permitted use warrants such an increase and the increase is not detrimental to surrounding public or private properties.
4. Except as allowed for corner lots, fences in the required front yard setback shall not exceed thirty-six (36) inches in height; such fences may be increased to forty-eight (48) inches maximum height if the fence material is at a ratio of not less than half open space to half closed space for every square foot for that part of the fence extending above thirty-six (36) inches in height. Examples of fence types that would typically comply include: chain link, picket, split rail, and similar fences.
5. On corner lots, solid fences up to six (6) feet in height within a street side setback may be permitted only on the frontage that does not contain a driveway, and provided the fence conforms to the required clear sight triangle.
6. In subdivisions approved after the effective date of this Title, fences taller than forty-eight (48) inches in height are not permitted within five (5) feet of abutting arterial or major collector streets. If lots are separated from the major collector or arterial street by a minimum five (5) foot wide landscaped out lot, owned and maintained by a homeowners association, a six (6) foot tall solid fence is permitted on the

lots abutting the outlet. The five (5) foot strip of landscaping must contain at least one (1) tree for every forty (40) linear feet of distance along the street and appropriate groundcover.

7. Fences in excess of six (6) feet shall comply with applicable building codes and all required setbacks for primary buildings, as applicable. Fences in LIRD zones may exceed six (6) feet as provided for in subsection 2 above.
8. Where a fence is proposed in conjunction with a development or change in use, the location, height, materials, and detailing of the fence may be subject to other requirements or limitations to ensure consistency with the purposes of this Title, compatibility with adjacent properties (Section 17.07.080), and other applicable standards (e.g., City of Fruita Design Criteria and Construction Specifications, Building Codes, and Colorado Department of Transportation or Mesa County standards, as applicable in Fruita).
9. All fences shall be properly maintained by the owner so as to not become a public nuisance or hazard.

I. Landscaping Requirements.

1. For single-family and duplex dwelling units, at least one (1) tree in the front yard is required to be planted and maintained within six (6) months of an issuance of a Certificate of Occupancy.
2. No less than ten (10) percent of a lot or parcel developed for multi-family or non-residential land uses must be landscaped. Landscaping must include at least one (1) tree for every five hundred (500) square feet of landscaped area, two (2) shrubs for every tree and appropriate groundcover. Additional landscaping, in addition to the minimum ten (10) percent, is required for parking lots containing more than fifteen (15) car parking spaces and/or for buffering and screening purposes as deemed necessary to comply with compatibility requirements of Section 17.07.080.

J. Non-Residential Uses in Community Mixed Use Zones. In addition to the requirements of Chapter 17.11, Design Standards, Non-Residential Uses in the CMU zone are regulated as follows:

1. Commercial uses that individually do not exceed a gross floor area of two thousand five hundred (2,500) square feet per commercial center are permitted;
2. Commercial uses that individually exceed a gross floor area of two thousand five hundred (2,500) square feet per use, and commercial centers that exceed a total of twenty-five thousand (25,000) square feet for all uses in the center, may be allowed subject to Conditional Use Permit approval. For the purpose of this Section, a “commercial center” is defined as the aggregate of all commercial uses located within six hundred (600) feet of one another, regardless of property ownership. Uses not under the same ownership, or separated from one another by a street, driveway, right-of-way, easement, open space or other feature, are still considered to be in the same center if located within six hundred (600) feet of one another;

3. A new commercial use shall not be permitted where it would be located within one-half (1/2) mile of an existing or city-approved commercial use that is also zoned CMU. This provision does not apply to commercial uses existing or proposed in the GC, TC, DMU, or LIRD zones.
4. Compliance with the Supplemental Zoning Regulations under Section 17.07.070 and Design Standards under Chapter 17.11 is required.

K. Storage of Motor Vehicles and Building Materials in Yards; Derelict or Abandoned Automobiles.

1. No portion of any required residential front yard or any portion of a residential side yard on the street side of a corner lot shall be used for the permanent storage of a trailer, airplane, boat (or parts of any of the foregoing), recreational vehicles, travel trailers, campers or building materials. Permanent storage, as used in this subsection, means the location of the above-mentioned items for more than forty-eight (48) hours during any seven (7) day period in the required front or side yard.
2. Permanent storage of a trailer, airplane, boat, recreational vehicle, travel trailer, truck camper, camper (or parts of any of the foregoing) within required side yards shall be screened from the abutting property with a sight-obscuring fence, wall, landscaping, or combination of these features at a minimum height of six (6) feet. The Community Development Director may waive the screening requirement where the adjacent property in question is in a commercial or industrial zone and/or compatibility under Section 17.07.080 is otherwise met.
3. It shall be unlawful to store or otherwise have, maintain or allow on a single parcel of land in the City of Fruita (or on contiguous parcels under the same, or substantially the same, ownership) more than one (1) non-farm vehicle not having current Colorado license plates or registration unless the vehicle is in an approved junkyard or other similar use where such vehicle storage is permitted. There shall be no limit on the number of active or serviceable agricultural vehicles on a parcel of land, regardless of whether such vehicles have current registration or license plates; however, the restrictions of one (1) vehicle per parcel of land shall apply to agricultural vehicles which are clearly abandoned or which are not in their present condition suitable for active agricultural use.

L. Temporary Uses and Structures. Temporary uses are characterized by their short term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, garage sales, temporary carnivals and fairs, parking lot or sidewalk sales, retail warehouse sales, seasonal sales such as Christmas tree sales, produce stands, and similar uses. Special Events such as city-wide festivals or carnivals conducted on school sites are exempt from these provisions. The Community Development Director may approve, approve with conditions or deny a Temporary Use Permit based on the following criteria. The city may also revoke the Temporary Use Permit or require a temporary use to cease at any time, if it is found to be in violation of any of these criteria.

1. The following criteria and standards apply to all temporary uses located on specific parcels:
 - a. The applicant has proof of the property owner's permission to place the use on the specified property.
 - b. Permanent changes to the site are prohibited.
 - c. Temporary uses shall not violate any conditions of approval that apply to the principle use of the site.
 - d. The temporary use regulations do not exempt an applicant or operator from any other required permits; such as, health department permits.
 - e. Site Design Review is required for any use that exceeds three (3) consecutive days and more than three (3) times in a twelve (12) month period.
 - f. The use provides adequate sight line clearance, does not interfere with travel on public ways (including pedestrian and vehicle travel), and does not interfere with access to another property.
 - g. Ingress and egress are safe and adequate when combined with the other uses of the property.
 - h. Temporary use sign(s) shall be permitted in compliance with the requirements of Chapter 41.
 - i. A use shall not be allowed on publicly owned property unless the applicant first obtains a Temporary Encroachment Permit or other applicable permit or license through the city or the property owner, if not the city.
 - j. All businesses are required to have a current city business license.
 - k. Where Site Design review is required, approval shall be subject to the following:
 - 1) The proposed site is adequate in size, shape and location to accommodate the temporary use;
 - 2) Adequate parking is available to accommodate the traffic expected to be generated by the temporary use;
 - 3) The temporary use will not jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare;
 - 4) Adequate sanitation facilities and solid waste collection facilities are provided; and
 - 5) Adequate on-site security measures are provided.

2. Temporary Uses for a Period Greater Than Ninety (90) Days. For uses that occur for a period longer than ninety (90) days, but not longer than six (6) months total in any twelve (12) month period, all of the following criteria must be met. Uses occurring for more than six (6) months in a twelve (12) month period are considered permanent uses and must follow all requirements of this Title regarding permanent uses.
 - a. The criteria for all temporary uses identified in subsection 1 are met.
 - b. The use is permitted in the zone designated for the subject property according to the Land Use Table in Section 17.07.060 and does not violate any conditions of approval for the property (e.g., existing permit or approval). If the principal use is classified as a Conditional Use by the zone, and such temporary use is not designated as allowed outright or is not specified by the existing Conditional Use Permit, an amended Conditional Use Permit is required.
 - c. The use does not require use of more than ten (10) percent of the off-street parking needed to comply with the minimum parking requirement under Chapter 17.39 for an existing, permanent use of the property.
 - d. The use complies with the applicable setback requirements and other standards of the zone in which it is located.
 - e. The use does not create adverse off-site impacts, including vehicle traffic, noise, odors, vibrations, glare or lights, on an adjoining use in a manner in which other uses allowed outright in the zone do not affect the adjoining use.
 - f. The use is adequately served by public water and sewer (or an approved septic system) or provides acceptable temporary/portable facilities, as approved by the city. (The applicant shall be responsible for complying with State Health regulations and shall obtain any related permits, when applicable.)
 - g. Conditions may be imposed regarding temporary utility connections, as necessary to protect public health, safety, or welfare.
3. Temporary Sales Office, Construction Office or Model House. A temporary sales office, temporary construction office or model home in any subdivision or parcel of land within the city, but for no other purpose, may be allowed in any zone based on compliance with the following criteria. The Community Development Director may approve, approve with conditions or deny a Temporary Use Permit based on the following:
 - a. Temporary sales office or construction office:

- 1) The temporary sales office or construction office shall be located within the boundaries of the subdivision or parcel of land in which the real property is to be sold and comply with applicable building code regulations;
- 2) The property to be used for a temporary sales office or construction office shall not be permanently improved for that purpose;
- 3) Conditions may be imposed regarding temporary utility connections, as necessary to protect public health, safety, or welfare; and
- 4) A temporary sales office or construction office may not be used as a dwelling unit.

b. Model house:

- 1) The model house shall be located within the boundaries of the subdivision or tract of land where the real property to be sold is situated; and
- 2) The model house shall be designed as a permanent structure that complies with this Code and any other applicable code or permit requirements.

M. Wood Burning Stoves, Fireplaces, Gas Log Fireplaces and Pellet Stoves.

1. Purpose: Air pollution in the Fruita area has become an issue of concern and has been documented by the Mesa County Health Department and the Grand Valley Air Quality Commission. It has been found that a major contributor to the air pollution problem in the Grand Valley is the widespread use of wood stoves and fireplaces that do not have air pollution control devices.
2. Devices Prohibited: New dwellings and remodeled portions of existing structures shall not contain wood burning stoves, fireplaces, coal burning or similar heating devices not approved by the U.S. Environmental Protection Agency (EPA).
3. Devices Allowed: Only EPA approved natural gas fireplaces, EPA approved pellet stoves, and EPA approved wood burning stoves and fireplaces shall be allowed in new or remodeled structures.

N. Outdoor Storage, HVAC Equipment and Other Service Functions. Must be incorporated into the overall design of the building and landscaping plan. Views of these areas shall be screened from visibility from public rights-of-way and adjacent residential land uses. These requirements do not apply to single family or duplex dwelling developments.

O. Waste Storage. Every use shall provide for enclosed solid waste storage, sorting, and recycling facilities, as applicable. Such facilities shall be oriented away from building entrances, setback at least ten (10) feet from any public right-of-way and screened from view of all public rights-of-way and adjacent land uses by locating them inside buildings (as practical), or by placing them behind a sight obscuring fence, wall,

landscaping, or combination thereof. The storage of oils, chemicals, wastewater and other liquid contaminants must be stored and contained in structures approved by the U.S. Environmental Protection Agency (EPA) and the Colorado Department of Public Health and Environment to prevent them from leaking or draining into the ground water, streams, creeks, or other water bodies.

- P. Repair, Painting and Similar Uses. For non-residential land uses, all repair, painting, bodywork, and similar activities, including the storage of refuse and vehicle parts, must take place within an enclosed structure. Residential land uses must meet all other Land Use Code requirements regarding such uses.
- Q. Loading and Service Areas. Each industrial and commercial development must have adequate loading space, loading docks for trucks, clear access to the loading docks and service areas. Areas for truck loading shall be screened and buffered from adjacent residential property and from the public rights-of-way by structures and/or landscaping.
- R. Energy Conservation. Each commercial or industrial project is encouraged to reduce non-renewable energy sources through the use of alternative, clean energy sources and energy conservation measures.
- S. Stormwater. Each business, commercial, or industrial development is required to meet or exceed the standards of the City of Fruita, Colorado Department of Public Health and Environment and the U.S. Department of Environmental Protection Agency with regard to water pollution control, stormwater control, and storm water management. It is the property owner's or applicant's responsibility, as applicable, to ensure compliance with state and federal regulations.
- T. Wastewater. Industrial pretreatment may be required for industries with certain liquid wastes as defined by the City of Fruita, Colorado Department of Public Health and Environment, and the US Environmental Protection Agency. All businesses and industries shall meet or exceed the requirements of the Fruita Municipal Code.
- U. Dust, Noise, Odor. Each business, commercial, or industrial development is required to meet or exceed the standards for dust, noise and odor, as adopted by the City of Fruita, Mesa County Health Department, state law, the Colorado Department of Public Health and Environment and the U.S. Environmental Protection Agency. An applicant may be required to submit an Erosion and Sediment Control Plan for agency review and approval prior to Planning Clearance, in conjunction with a proposed development application, or as a condition of development approval prior to construction.
- V. New Outdoor Lighting.
 - 1. Street lighting shall be required for all new developments. All intersections shall be illuminated. If there is more than six hundred (600) feet between intersections, additional lighting shall be installed between intersections. Where a new street intersects with an existing street that is not illuminated, the developer will be responsible for the cost of illuminating such intersection. The local electric service provider and the City of Fruita must approve street lighting plans. Streetlights shall also be in accordance with the provisions below regarding all new outdoor lighting.

2. The following regulations shall apply to all new outdoor lighting, including street lighting and outdoor lighting in new residential, commercial and industrial projects:
 - a. All fixtures shall be fully shielded. For purposes of this subsection, fully shielded shall mean fixtures constructed so that light rays emitted are projected below, and not above, the horizontal plane of the fixture.
 - b. Lighting shall be downcast and so placed as to prevent the light rays or illumination from being cast beyond property lines.
 - c. All metal halide and fluorescent fixtures shall be filtered with glass, acrylic or translucent enclosures.
 - d. Only high-pressure sodium or low-pressure sodium fixtures shall be permitted in commercial or multi-family residential parking areas. In addition, the level of illumination shall be consistent with minimum industry standards adopted by the Illuminating Engineering Society.
 - e. Fluorescent lights shall be forty (40) watts or less per fixture. Gas fired fixtures and lights used for holiday decorations are exempt from the requirements of this subsection.
- W. Irrigation water must be provided to new subdivisions and must be used for required landscape areas where irrigation water is legally and physically available. A minimum of one (1) to one and one half (1 ½) shares of irrigation water per irrigated acre is required to be provided.

17.07.080 LAND USE COMPATIBILITY CRITERIA.

Some provisions of this Title require an applicant for a land use approval to demonstrate that a proposal is “compatible” with adjacent properties. The purpose of this Section is to provide a fair and consistent manner in which to consider compatibility within the overall context of the Fruita Community Plan, existing adjacent land uses, applicable zoning district requirements, and other city codes and regulations. Nothing in this Section shall prevent the City of Fruita from denying a land use application based on relevant Code requirements or taking enforcement action against a property owner where a nuisance or other Code violation occurs.

For all land uses, “compatibility” is provided when a proposed land use can coexist with other existing uses in the vicinity without one use having a disproportionate or severe impact on the other use(s). The city decision-making body may consider other uses existing and approved, and may consider all potential impacts relative to what customarily occurs in the applicable zone and those which are foreseeable, given the range of land uses allowed in the zone. The review authority may require conditions of approval to promote compatibility between a proposed use and existing uses in the vicinity to ensure compatibility.

17.07.090 LEGAL NON-CONFORMING USES, STRUCTURES, AND LOTS. Any use, structure, or lot in existence and lawful at the time of adoption of this Title or any subsequent amendment hereto, which is not in conformance with the provisions of this Title or amendment, shall be considered a legal non-conforming use,

structure or lot and may continue in existence pursuant to the following:

- A. A legal non-conforming use may be extended throughout the same building, provided no structural alteration of such building is made for the purpose of such extension.
- B. A legal non-conforming use shall not be changed to any other use except a conforming use.
- C. Whenever a legal non-conforming use of land or a building has been discontinued for a continuous period of one (1) year, future use of the land or building shall be in conformance with the provisions of this Title.
- D. A building which does not meet the setback, height or other site requirements of this Chapter may be repaired, maintained, or extended, provided any such extension is in full compliance with all provisions of this Title.
- E. A structure containing a legal non-conforming use which has been damaged by fire or other causes to an extent not exceeding fifty (50) percent of its assumed market value on the day before the calamity may be restored in conformance with the city's building codes, provided such work is commenced within one (1) year of the calamity, and such non-conforming use can be continued. If the building is damaged to the extent of more than fifty (50) percent of assumed market value, the non-conforming use must be discontinued. Assumed market value shall be determined by multiplying the most recent assessed value of the damaged property by four (4). This section shall not apply to single-family houses. Legal non-conforming single-family houses may be rebuilt.
- F. An individual lot which was legally created but does not meet the minimum lot area requirement for the zone in which it is located shall be considered a legal non-conforming lot, and any building situated on such lot shall be considered a legal non-conforming building, subject to the provisions of this Section. Such legal non-conforming lot may be used for construction of a building allowed in the zone, provided all other zoning regulations, including but not limited to setbacks, are met.
- G. Mobile and manufactured homes shall be subject to the provisions of this Code on the date they are removed from their pad or foundation; however, if a mobile or manufactured home was legally established as a single unit/use on a single-family residential property in the City of Fruita, replacing the mobile or manufactured home on the same site does not require a Conditional Use Permit, but all other standards apply.
- H. Existing individual sewage disposal systems (septic systems) that do not comply with current Code requirements for minimum lot size, or do not comply with current Mesa county regulations regarding individual sewage disposal systems shall be connected to city sewer within twelve (12) months of being notified when city sewer comes within four hundred (400) feet of the property.

Chapter 17.08
DENSITY BONUSES

Sections:

17.08.010	Purpose
17.08.020	Applicability
17.08.030	General Provisions
17.08.040	Density Bonus Matrix
17.08.050	Density Bonus Criteria

17.08.010 PURPOSE. The purpose of Chapter 17.08 is to help implement portions of the Fruita Community Plan by providing for residential density bonuses in designated zones tied to the provision of community amenities. This Chapter is intended to promote compatibility between land uses, as well as predictability and fairness in the approvals process, consistent with the Fruita Community Plan.

17.08.020 APPLICABILITY. The provisions of Chapter 17.08 apply only when an applicant has requested a density bonus and only where the zone in which a project is located specifically authorizes residential densities exceeding the base density of the zone. Density bonuses granted under Chapter 17.08 may be combined with density transfers granted under Chapter 17.09, subject to the limitations of Chapter 17.09 (maximum transfer of one (1) dwelling unit per gross acre).

17.08.030 GENERAL PROVISIONS.

- A. Density bonus requests shall be submitted on forms provided by the Community Development Director and shall be accompanied by plans, exhibits, narrative, and other information as required by the Community Development Director, to sufficiently demonstrate compliance with the provisions of this Chapter.
- B. Density bonus applications shall be processed at the same time and using the same procedure as required for a Major Subdivision, Planned Unit Development, or Site Design Review, as applicable.
- C. Projects utilizing the provisions of this Chapter are not necessarily required to be processed as a Planned Unit Development; nor are they required to obtain development rights under Chapter 17.09 Transfer of Development Rights/Credits, except as provided in Section 17.08.040.
- D. The city decision-making body may preliminarily approve a density bonus, with final approval contingent upon the owner and city executing an Annexation Agreement, Subdivision or Development Improvement Agreement, PUD Guide, and/or other binding agreement as necessary to ensure compliance with this Title and other city requirements.

- E. Except as provided under Subsection D (preliminary approval) above, a density bonus approval shall be binding on the subject property and shall run with the land.
- F. The city’s decision-making body may approve, deny, or approve with conditions, density bonus applications filed in accordance with Chapter 17.08.

17.08.040 DENSITY BONUS MATRIX. The city’s decision-making body is authorized to grant density bonuses in accordance with the following point system. All densities are dwelling units per gross area, as defined in Chapter 17.03. The criteria for awarding density bonus points are provided in Section 17.08.050. No fractions of points are awarded.

Density Bonus Points Achieved*	RE	RR	SFR	CMU
None	1.0 DU/3.0 acres	1.0 DU/acre	2.0 DU/acre	2.0 DU/acre
6-12	1.0 DU/2.0 acres	2.0 DU/acre	3.0 DU/acre	3.0 DU/acre
13-25	Not applicable	Not applicable	Not applicable	4.0 DU/acre
26-38	Not applicable	Not applicable	Not applicable	5.0 DU/acre

*The first six (6) density bonus points for projects in the SFR and CMU zones must be achieved for Housing Variety, pursuant to Section 17.08.050A.

17.08.050 DENSITY BONUS CRITERIA. Density bonus points are awarded based on an application’s compliance with the approval criteria contained in the following table and text. The City Council may grant density bonuses in accordance with the following point system. A provision by an applicant for a density bonus point in one category cannot be used again for additional points in another category.

Table 17.08.050

Distribution of and Criteria for Density Bonus Points

Categories (58 Points Possible)	Criteria Summary only. See text following table for code criteria.
A. Housing Variety (18 points possible)	<p>Housing variety required with flexibility for small projects.</p> <p>Lot size – points for projects with range of lot sizes, including large lots.</p> <p>Housing choices – points for projects with “small housing types” that contribute to housing choice; points based on percentage (%) of “small” housing units (may be attached or detached units).</p> <p>Affordable housing – points for projects with deed-restricted affordable housing units.</p>
B. Context Sensitivity (8 points possible)	<p>Compliance with District Design standards required – no points (Chapter 17.11)</p> <p>Transition lot sizes to blend with abutting residential lots “feathering” – points for projects address lot-to-lot relationship.</p> <p>Transition building heights to blend with abutting residential structures – points for projects that address building-to-building relationship.</p> <p>Orient multifamily, attached single family and detached single family dwelling units to open space – points for multifamily attached single family and/or detached single family dwelling units with open space frontage</p> <p>Integrate shade features into design of buildings, parks, trails and open space areas – points based on quality of shade amenities.</p> <p>Incorporate mature trees and/or large rock outcroppings, as applicable, into site design – points based on quality of design.</p> <p>Incorporate historic or cultural resources into project – e.g., points for preserving historic farm structures and providing interpretative site.</p> <p>Utilize xeriscaping to conserve water and improve habitat.</p> <p>Fencing that avoids the ‘fence canyon’ affect along major roadways</p> <p>Recreational Vehicle Parking providing for multifamily, attached single family and/or small lot (<6,000 square feet) detached dwelling units to help avoid parking problems in higher density areas.</p>

Table 17.08.050

Distribution of and Criteria for Density Bonus Points

Categories (58 Points Possible)	Criteria Summary only. See text following table for code criteria.
C. Open Space (9 points possible)	<p>Compliance with minimum open space requirements – no points</p> <p>Provide more than the minimum open space requirement – points based on percentage (%) of open space.*</p> <p>Proximity of dwellings to open space – points based on percentage (%) of dwelling units in close proximity to open space.</p> <p>Provide recreation amenities appropriate to the site – points based on quality of recreation amenity and potential for public enjoyment of it.</p> <p>*Note: Density bonus is not in addition to impact fee credit. Public improvements and dedications that exceed impact fee requirements may receive a combination of density bonus points and impact fee credit, to be determined by the city decision-making body.</p>
D. Multi-Modal Transportation (11 points possible)	<p>Compliance with Subdivision standards and Design standards required – street connectivity and pedestrian ways required (no points)</p> <p>Complete streets required – sidewalks, park strips with street trees, bicycle lanes required on all major collector and arterial streets (no points). Points awarded for park strips with street trees on local and minor collector residential streets.</p> <p>Extending sidewalks “off-site” where gaps exist – points based on “extra” improvement beyond that which would be provided under standard code requirements.</p> <p>Traffic-calming features – to include intersection curb extensions, roundabouts, or other traffic control devices; points based on “extra” improvement beyond that which would be provided under standard code requirements.</p> <p>Pedestrian shelters with benches (rest area) on trails or at bus stop – points based on number and quality of rest areas.</p>

Table 17.08.050

Distribution of and Criteria for Density Bonus Points

Categories (58 Points Possible)	Criteria Summary only. See text following table for code criteria.
E. Location and Linkages (2 points possible)	<p>Flood fringe avoidance – a point for development that does not develop the flood fringe.</p> <p>Agricultural land conservation – a point for the purchase of development rights/credits</p> <p>School proximity – a point for projects that place dwellings in close proximity to an existing or planned public school.</p> <p>Habitat or wetlands conservations/restoration – a point for projects that conserve and/or restore wetlands or other habitat for native plant or animal species.</p>
F. Schools (2 points possible)	<p>School land dedication or school facility improvements that directly benefit the school attendance area in which the project is located.</p> <p>Density bonus is not in addition to impact fee credit. Public improvements or dedications that exceed impact fee requirement may receive a combination of density bonus points and impact fee credit, to be determined by the city decision-making body.</p>
G. Neighborhood Commercial Center (2 points possible)	<p>Neighborhood commercial centers – must be part of an “integrated” mixed-use community, subject to the applicable Special use standards under Section 17.07.070 and the Design Standards under Chapter 17.11. Development agreement required where the applicant requests a density bonus based on future provision of neighborhood commercial uses (i.e., reservation of land for future development).</p> <p>Contingency – If the proposed neighborhood commercial center site does not develop with commercial uses, future site development may be limited to two (2) units per gross acre.</p>

Table 17.08.050

Distribution of and Criteria for Density Bonus Points

Categories (58 Points Possible)	Criteria Summary only. See text following table for code criteria.
<p>H. Green Construction & Technology (4 points possible)</p>	<p>Construction activity pollution prevention – erosion and sediment control plan required.</p> <p>Green Technology*:</p> <ul style="list-style-type: none"> • Certified Green Building • Energy efficiency in buildings • Reduced water use • Reuse of Historic Buildings. See “Context Sensitivity” category • Minimize site disturbance through site design • Minimize site disturbance during construction • Storm water management • Heat island reduction • Solar orientation – See “Context Sensitivity” category • On-site energy generation or use of renewable energy • District heating and cooling • Infrastructure energy efficiency • Wastewater management • Recycled content in infrastructure • Construction waste management • Light pollution reduction <p>*The above options are based on the Green Construction & Technology component of the Leadership Through Energy and Environmental Design Neighborhood Development (LEED-ND) rating system. See code criteria that follow for details and options.</p>

Table 17.08.050	
Distribution of and Criteria for Density Bonus Points	
Categories (58 Points Possible)	Criteria Summary only. See text following table for code criteria.
I. Innovation in Design (2 points possible)	At the City Council's discretion, point(s) for other innovative design solutions that are not included in items A-H, above, may be awarded, consistent with the Fruita Community Plan.

A. Housing Variety (18 points possible)

1. Lot size/land area variety – Choose one of the following options:

Criteria	Bonus Points
a) At least ten (10) percent of lots or land area per unit in the project are at least twenty (20) percent larger than the project's median lot or land area per unit size.	3
b) At least twenty (20) percent of lots or land area per unit in the project are at least twenty (20) percent larger than the project's median lot or land area per unit size.	6
c) At least thirty (30) percent of lots or land area per unit in the project are at least twenty (20) percent larger than the project's median lot or land area per unit size.	9

Percentages are rounded down to closest whole ten (10) percent; no partial points.

2. Housing choices – Choose one of the following options:

Criteria	Bonus Points
a) At least ten (10) percent of the dwelling units in the project consist of "small housing types".	3
b) At least twenty (20) percent of the dwelling units in the project consist of "small housing types".	6
c) At least thirty (30) percent of the dwelling units in the project consist of "small housing types".	9

Small housing types are dwelling units (including apartment units) that individually contain less than 1,750 square feet of floor area, including garages or covered parking areas. Percentages are rounded down to closest whole ten (10) percent; no partial points.

3. Affordable housing – Choose one of the following options:

Criteria	Bonus Points
a) At least fifteen (15) percent of the dwelling units in the project reserved for qualifying buyers or renters with incomes at or below the Mesa County area median income.	6
b) At least ten (10) percent of the dwelling units in the project reserved for qualifying buyers or renters with incomes at or below eighty (80) percent of Mesa County area median income.	6
c) At least five (5) percent of the dwelling units in the project reserved for qualifying buyers or renters with incomes at or below sixty (60) percent of Mesa County area median income.	6

Income levels determined based on household size and other factors, in accordance with the most current Mesa County Housing Authority or U.S. Department of Housing and Urban Development criteria. Housing must be deed-restricted to provide for the requisite affordability. Percentages are rounded down to closest whole ten (10) percent; no partial points. Development Agreement required.

B. Context-Sensitivity (8 points possible)

1. Compliance with Design Standards required – no points for compliance with Chapter 17.11.
2. Transition lot sizes to blend with abutting residential lots (“feathering”). Two (2) points may be awarded for maintaining lot sizes for all lots on the perimeter of the project that are not less than eighty (80) percent of the size of abutting lots in an existing platted subdivision. The feathering provision does not apply where the abutting lots or parcels that can reasonably be subdivided in the future; nor does it apply where the lands are separated by more than one hundred (100) feet by a street right-of-way, open space, or similar feature.
3. Transition building heights to blend with abutting residential structures. Two (2) points may be awarded for stepping-down building heights on the perimeter of the project. This criterion applies to new dwellings placed within forty (40) feet of existing single-family dwellings, and is met when no portion of the new dwelling(s) exceeds the height of the existing dwelling(s) by more than eight (8) feet.
4. Orient multifamily, attached single family and/or small lot (<6,000 square feet) detached dwelling units to open space. One (1) point may be awarded if no less than fifty (50) percent of the perimeter of the required open space area(s) within a subdivision has multifamily, attached



Example of townhomes oriented to open space

single family or small lot detached single-family dwelling units placed adjacent to it. Two points may be awarded if no less than seventy-five (75) percent of the open space meets this requirement. For purposes of this subsection, “adjacent” means fronting onto or directly across a street or alley from the subject open space area. Where dwellings front onto an open space, each dwelling unit must have an individual entrance or an unenclosed porch that overlooks the open space.

5. Integrate shade features into design. One or two (1-2) points may be awarded for incorporating shade features. For example, outdoor seating areas for incorporating shade features. For example, outdoor seating areas adjacent to civic buildings and trails, and within parks and other open space areas should contain canopies, pergolas, or other features as appropriate. Shade features must provide shade on not less than ten (10) percent of the development’s total open space area excluding public street right-of-ways and parking areas; shade trees may be counted toward up to seventy-five (75) percent of the required shade coverage area. For purposes of this section, 12:00 noon on the summer solstice date shall be used for determining shade coverage. For newly planted trees, shade canopies shall be based on typical growth habit within five (5) years of planting. The number of points awarded is based on the quality of the shade feature(s) and the context in which it is provided: one (1) point possible for shade features on private open space and two (2) points possible for public open space shade features.
6. Incorporate mature trees and/or large rock outcroppings. One or two (1-2) points may be awarded for incorporating mature trees or unique rock outcroppings into the site design. The number of points awarded is based on the quality of the natural feature(s) and the context in which it is provided: one (1) point possible for preserving trees/rock outcroppings on private open space and two (2) points possible for public open space.
7. Historic or cultural resources. One or two (1-2) points may be awarded for incorporating historically or culturally significant resources into the site design. The number of points awarded is based on the quality of the resource and the context in which it is provided: two (2) points possible for preserving resources that are listed or are eligible to be listed on a local, state, or national register of historic landmarks; one (1) point possible for other resources, as deemed appropriate by the city decision-making body.
8. Xeriscaping. One (1) point may be awarded for landscape plans that utilize drought-tolerant (xeriscape) plant and ground cover materials to conserve water and improve native habitat. One (1) point possible where the landscape plans rely exclusively on plants that are indigenous to the high desert area of Western Colorado. (See also, Water Efficiency and Storm Water Management under subsection H.)

9. Fencing. One (1) point may be awarded for prohibiting fencing over four (4) feet tall adjacent to collector and arterial roadways, including properties separated from the collector and arterial streets by a landscaped out lot not less than ten (10) feet in width.
10. Recreational Vehicle Parking. One (1) point may be awarded for providing a separate space for recreational vehicle parking in subdivisions incorporating multifamily, attached single family and/or small lot (<6,000 square feet) detached dwelling units. A separate parking area at least ten (10) feet wide by thirty (30) feet long must be provided for every two (2) dwelling units of this type in the subdivision.

C. Open Space (9 points possible)

1. Compliance with minimum requirements. All projects must comply with the minimum requirements of Chapter 17.19 Public Dedications and Impact Fees, and Chapter 17.29 Parks, Open Space and Trails. No points.
2. Exceed minimum requirements. Up to nine (9) points may be awarded to projects that reserve and improve open space/parkland. Points may be awarded cumulatively under one or more of the following options:

OPEN SPACE	
Criteria	Bonus Points
a) Project exceeds minimum park/open space dedication and improvement requirements of Chapter 17.19 and Chapter 17.29. One (1) point for every ten (10) percent above minimum requirement, up to thirty (30) percent or three (3) points.*	1-3
b) At least one park at least two (2) acres in size is located within one-quarter (1/4) mile of all residents of a proposed subdivision; measured as shortest distance following existing and planned public streets and trails.	1
c) Project contains trail improvements, as required, under Chapter 17.29. No points for providing trail. d) One (1) point possible when trail is provided to connect to an existing or city planned trail or park and project exceeds minimum park/open space requirements under Chapter 17.29. Up to two (2) additional points possible for extending trail off-site and connecting it to an adjacent public street, trail, or park: one (1) point for each one hundred fifty (150) feet the trail is extended. Distances are rounded down to closest 100-foot increment; no partial points.*	1-3
e) Buffering between proposed development and any environmental resource (e.g., washes, wetlands, or similar resources) exceeds by at least thirty-five (35) feet the minimum buffers identified by the Fruita Community Plan and in Chapter 29 of this Title.	1

OPEN SPACE	
Criteria	Bonus Points
f) Project contains private recreation amenity in addition to required public open space/park areas. One (1) point for improving at least two (2) percent of the total site with private recreation amenities. May be unenclosed, as in a plaza, shared courtyard, community garden, or rooftop garden; or enclosed, as in a swimming pool, clubhouse, or community greenhouse.	1

*Percentages and distances are rounded down to closest ten (10) percent (a) or two (2) percent (f) increment, as applicable, and to closest 100-foot increment (e); no partial points. Density bonus is not in addition to impact fee credit. Public improvements or dedications that exceed impact fee requirement may receive a combination of density bonus points and impact fee credit, to be determined by the city decision-making body.

D. Multi-Modal Transportation (11 points possible)

1. Compliance with Subdivision standards and District Design standards required. Street connectivity and pedestrian ways necessitated by the proposed development are required (no points).
2. Complete streets required. Bicycle lanes, and park strips with street trees are required on all major collector and arterial streets (no points).
3. Multi-modal amenities. Points may be awarded cumulatively as follows:

MULTI-MODAL TRANSPORTATION	
Criteria	Bonus Points
a) Park strips and street trees on local residential streets. One (1) point possible where twenty (20) percent of a project's total street frontage (counting both sides of all streets) contains street trees in park strips; two (2) points possible for thirty (30) percent of frontage with amenities; three (3) points for forty (40) percent; four (4) points for fifty (50) percent; five (5) points for sixty (60) percent; and six (6) points for sixty-five (65) percent or more. Park strips must be no less than five (5) feet in width and contain, in aggregate, at least one (1) tree for every forty (40) feet of street frontage. Trees may be grouped or clustered for compatibility with the overall site design, and need not be spaced at regular intervals of forty (40) feet.*	1-6
b) Off-site sidewalk extension. Up to three (3) points possible for extending a street sidewalk off-site and connecting it to an adjacent sidewalk, public street, trail, or park: one (1) point for each one hundred fifty (150) feet the sidewalk is extended. Distances are rounded down to closest 100-foot increment; no partial points.*	1-3

MULTI-MODAL TRANSPORTATION	
Criteria	Bonus Points
c) Traffic-calming features. Up to six (6) points possible for providing traffic-calming features. Features may include but are not limited to intersection curb extensions, roundabouts, traffic circles, T-intersection, curvilinear street, skinny street (<30' curb-to-curb with parking on both sides), woonerfs (pedestrian streets), enhanced pedestrian crossings (e.g., pavers or stamped concrete inlay), and other traffic control devices as approved by the city. One (1) point possible for first street where traffic calming feature(s) employed for the full length of street; additional point possible for each additional street, provided the street must be at least four hundred (400) feet in length to be eligible for points.*	1-6
d) Pedestrian shelters with benches (rest area). One (1) point is possible for providing a covered bus waiting area at identified bus stops or at least two (2) trailside rest areas for pedestrians.	1

***Note:** Density bonus is not in addition to impact fee credit. Public improvements or dedications that exceed impact fee requirement may receive a combination of density bonus points and impact fee credit, to be determined by the city decision-making body.

E. Location and Linkages (2 points possible)

A total of two (2) points are possible selecting from the following options:

1. Floodplain avoidance. One (1) point possible for not developing in the one hundred (100) year floodplain.
2. Agricultural land conservation. One (1) point possible where project involves purchase of development rights/credits under Chapter 17.09; the density bonus point is in addition to any development credit/right transferred to the subject site under Chapter 17.09.
3. School proximity. One (1) point possible for project that places at least fifty (50) percent of its dwellings within one-quarter (1/4) mile of an existing or planned public school; measured as shortest distance following existing and planned public streets and trails.
4. Habitat or wetlands conservation/restoration. One (1) point is possible for a project that conserves and/or restores a wetland or other habitat for native plant or animal species, as recommended by the Colorado Division of Wildlife.

F. Schools (2 points possible)

Two (2) points possible for dedicating land for a school or contributing to school facility improvements that directly benefit the school

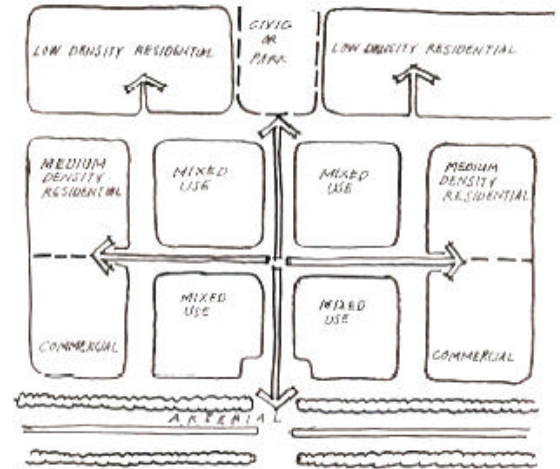


Proximity to schools

attendance area in which the project is located. Density bonus is not in addition to School Land Dedication fee credit. Public improvements that exceed School Land Dedication fee requirement may receive a combination of density bonus points and impact fee credit, to be determined by the city decision-making body.

G. Neighborhood Commercial Center (2 points possible)

Two (2) points are possible for developing a neighborhood commercial center as part of an integrated mixed-use community. For the purpose of this subsection, “integrated” means the commercial center is located within six hundred (600) feet of a residential use developed (or approved for development) at a density of not less than five (5) units per gross acre. Additionally, the commercial center must be located within one-quarter (1/4) mile of an existing or city planned park at least four (4) acres in size; measured as the shortest distance following existing and planned public streets and trails. (See also, Special Use standards in Section 17.07.070 and District Design Standards in Chapter 17.11.) A development agreement is required when the applicant requests a density bonus based on future provision of neighborhood commercial uses (i.e., reservation of land for future development). If the proposed neighborhood commercial center site does not develop with commercial uses, future residential development of the site may be limited to two (2) units per gross acre.



Commercial center concept, where "mixed-use" indicates live-work uses or attached/small lot (<6,000 square foot lot) housing in proximity to commercial

H. Green Construction & Technology (4 points possible)

1. Construction activity pollution prevention. An Erosion and Sediment Control (ESC) Plan is required (no points). The ESC Plan shall conform to the erosion and sedimentation requirements of the EPA Construction General Permit (current edition) or local erosion and sedimentation control standards and codes, whichever is more stringent. Additionally, Post Construction Storm Water Management is required. Post Construction Storm Water Management Best Practices must be implemented in accordance with local and state storm water requirements (no points).
2. Green technology. Up to four (4) points possible for demonstrating consistency with selected provisions of the Green Construction & Technology (GCT) component of the Leadership Through Energy and Environmental Design Neighborhood Development (LEED-ND) rating system. Density bonus points may be awarded for projects that demonstrate certification potential under LEED-ND; however,

certification is not required. No points awarded for meeting LEED-ND standards if those standards are already standard local, state or federal requirements. The city decision-making body may allow alternate rating systems it deems equivalent to LEED-ND. The city may also require the applicant to enter into a Development Agreement where density bonus points are awarded under this Section.

Green Construction & Technology Criteria. One (1) density point possible for meeting the minimum criteria (one LEED-ND point) on four (4) of the following LEED-ND credits; two (2) density bonus points possible for meeting the minimum criteria (one LEED-ND point) on eight (8) or more of the LEED-ND credits; three (3) density bonus points possible for meeting the minimum criteria (one LEED-ND point) on twelve (12) or more of the LEED-ND credits; four (4) density bonus points possible for meeting the minimum criteria (one LEED-ND point) on 16:

- a. Certified Green Buildings (GCT Credit 1)
- b. Energy efficiency in buildings (GCT Credit 2)
- c. Reduced water use (GCT Credit 3)
- d. Reuse of Historic Buildings. (GCT Credit 5) – See also, “Context Sensitive” category above.
- e. Minimize site disturbance through site design (GCT Credit 6)
- f. Minimize site disturbance during construction (GCT Credit 7)
- g. Storm water management (GCT Credit 9)
- h. Heat island reduction (GCT Credit 10)
- i. Solar orientation (GCT Credit 11)
- j. On-site energy generation or use of renewable energy (GCT Credit 12)
- k. District heating and cooling (GCT Credit 14)
- l. Infrastructure energy efficiency (GCT Credit 15)
- m. Wastewater management (GCT Credit 16)
- n. Recycled content in infrastructure (GCT Credit 17)
- o. Construction waste management (GCT Credit 19)
- p. Light pollution prevention (i.e., lighting consistent with dark sky best practices) required (GCT Credit 20)

I. Innovation in Design (2 points possible)

At the City Council’s discretion, one or two (1-2) points may be awarded for other innovative design solutions that are not included in items A-H, above, consistent with the policies and objectives of the Fruita Community Plan.

Chapter 17.09
TRANSFER OF DEVELOPMENT RIGHTS/CREDITS

Sections:

17.09.010	Purpose
17.09.020	General Provisions
17.09.030	Sending Areas
17.09.040	Receiving Areas
17.09.050	Standards and Criteria

17.09.010 PURPOSE. The Transfer of Development Rights/Credits Program is a planning tool for cooperatively managing growth between the City of Fruita, Mesa County, and willing property owners for the following purposes:

- A. To encourage the preservation of large land parcels in agricultural use, buffers between growing communities, or areas with significant natural features;
- B. To support the Cooperative Planning Area that maintains a distinct separation between the City of Fruita and the City of Grand Junction through the perpetuation of rural land uses;
- C. To assist in the orderly development and preservation of rural lands;
- D. To ensure orderly transitions of density between urban and rural areas;
- E. To encourage urban residential development and downtown redevelopment at appropriate densities and locations;
- F. To encourage landowners in designated Sending Areas to forego or limit development of their property by transferring their property's development rights to a designated Receiving Area;
- G. To provide an institutional mechanism for landowners in Sending Areas to receive compensation for either not developing or limiting the development of their property;
- H. To provide an opportunity for landowners in Receiving Areas to obtain a higher return on investment through developing at an increased density; and
- I. To encourage intergovernmental coordination in order to achieve the above purposes.

17.09.020 GENERAL PROVISIONS. The city's Transferable Development Rights/Credits (TDR/C) Program establishes a framework to match landowners that are eligible to transfer (sell) development rights/credits with land developers that desire to acquire (purchase) development rights/credits. The TDR/C transaction is consummated by the issuance of TDR/C certificates. The city bears no responsibility for any misrepresentation of the terms or expectations of a TDR/C transaction.

- A. The total density increase above the base density provided through TDR/Cs shall not exceed one (1) dwelling unit per gross acre over the entire area of the receiving site. Additional density bonuses are available under Chapter 17.08.
- B. Bearers of TDR/C certificates are eligible for achieving bonus density in all zones that allow density bonuses.

17.09.030 SENDING AREAS. The following provisions are established in the Mesa County Land Development Code for Sending Areas and are summarized here. In the event of conflict between this Section and the Mesa County Land Development Code, the Mesa County Land Development Code shall control:

- A. A landowner of a Sending Site in a Sending Area may voluntarily sell their development rights/credits to a buyer, at a value established by the seller and the buyer.
- B. The issuance of TDR/Cs from the Sending Site must be evidenced by a Transferable Development Right/Credit Certificate issued by Mesa County. In order to issue the TDR/C Certificate, a Declaration of Restriction of Development and Easement on a form made available by the Mesa County Planning and Economic Development Department signed by the owner of record from which Transferable Development Rights/Credits are being transferred must be presented to the Mesa County Planning and Economic Development Department, and shall clearly identify:
 - 1. The grantor;
 - 2. The legal description of the Sending Site from which the Transferable Development Rights/Credits are being transferred and the specific portion of the Sending Site being restricted from future development through the transfer; and
 - 3. The number of TDR/Cs being transferred from the Sending Site.
- C. The Declaration of Restriction of Development and Easement shall be recorded in the property records of Mesa County clearly stating the number of Development Rights/Credits that have been

transferred. The Declaration of Restriction of Development and Easement shall be perpetual.

- D. Upon recordation of the deed restriction, a TDR/C Certificate shall be issued by Mesa County identifying the number of Development Rights/Credits transferred, and the book and page number of the recorded Declaration of Restriction of Development and Easement.
- E. Once a TDR/C Certificate is issued:
 - 1. Future development of the Sending Site is limited to the remaining density not severed or extinguished by the Transfer of Development Rights/Credits;
 - 2. The Sending Site may only be developed as a cluster development under Section 6.4.4 of the Mesa County Land Development Code; and
 - 3. No rezoning of the Sending Site to a higher density or other use shall be permitted by Mesa County.

17.09.040 RECEIVING AREAS. Receiving areas are defined as the city zones that allow a density bonus: Rural Estate (RE); Rural Residential (RR); South Fruita Residential (SFR), and; Community Mixed Use (CMU). The following provisions are established for Receiving Areas:

- A. Existing city zoning limits the development potential of properties within Receiving Areas to a base density. For property pursuing annexation into the City of Fruita, the base density and underlying zone shall be the density and zoning recommended by the Fruita Community Plan.
- B. For a parcel to be developed at a density greater than the base density allowed in any zone that allows a density bonus, the owner of record or applicant shall use one (1) or more TDR/C Certificates, a Density Bonus under Chapter 17.08, or a combination of TDR/C Certificates and Chapter 17.08 Density Bonuses, or may apply for a PUD zone.
- C. TDR/C Certificates proposed for use on a Receiving Site must originate only from a Sending Area identified for the City of Fruita/Mesa County TDR/C Program.
- D. An owner of record of a Receiving Site or an applicant interested in participating in the TDR/C Program should contact the City of Fruita Community Development Department to obtain an estimate of the bonus density that may be achieved, and the associated site development requirements that may apply on the subject property.
- E. An owner of record in a Receiving Area or an applicant choosing not to participate in the TDR/C

Program shall retain the option to develop its property at the density as provided for in this Title.

17.09.050 STANDARDS AND CRITERIA. Recommendations of the Planning Commission to the City Council and decisions by the City Council concerning the Transfer of Development Rights/Credits shall be based upon the base density for each zone and potential density bonuses allowed, pursuant to this section and Chapter 17.08. The total density increase above the base density provided through TDR/Cs shall not exceed one (1) dwelling unit per gross acre over the entire area of the Receiving Site.

Chapter 17.11
DESIGN STANDARDS

Sections:

- 17.11.010 Purpose**
- 17.11.020 Applicability, Adjustments, Guidelines Versus Standards**
- 17.11.030 Downtown Mixed Use and Community Mixed Use Zones – Commercial Development**
- 17.11.040 Development in Tourist Commercial and General Commercial Zones**
- 17.11.050 Attached Single Family Residential, Multi-Family Residential and Single Family Residential Lots Measuring Less Than 7,000 Square Feet in Size and Lot Widths Measuring Less Than 60 Feet**
- 17.11.060 Mixed Use Developments in the Community Mixed Use Zone**

17.11.010 PURPOSE. It is the purpose of this Chapter to set forth the design standards under which the architecture and site design of certain developments are reviewed in order to meet the goals, objectives and design criteria set forth in the City of Fruita Master Plan.

The 2008 Community Plan strives to promote high quality growth that preserves Fruita’s character and increases economic sustainability. The Plan goes on to call for the creation of vibrant neighborhoods with a diversity of housing options that allow Fruita residents to live, work, and play in their community. As such, the design standards in this chapter are proposed to meet these goal statements combining the needs for strong livable neighborhoods and long-term economic development. These standards are intended to set the course to meet the desired character of the community. Because not all development opportunities can be predicted or accommodated in even the best written code, Section 17.11.020(B) is included with this chapter in order to provide developers a tremendous level of flexibility when applying the regulations and requirements in this chapter. The purpose of this chapter is to quantify and qualify requirements to meet the community’s character and goals. For any project, should an applicant believe their project is meeting the broad goals of the Community Plan, but not necessarily specific requirements of this chapter; the applicant is encouraged to utilize 17.11.020 (B). This chapter is intended to help guide and provide direction for an applicant, and will encourage any high quality project that meets community goals and objectives. All interpretations of the requirements of this chapter shall meet this purpose.

17.11.020 APPLICABILITY, ADJUSTMENTS, GUIDELINES VERSUS STANDARDS.

A. Applicability.

The design standards of this Chapter apply only to non-residential developments that are located in the following zones: Downtown Mixed Use (DMU); Community Mixed Use (CMU); Tourist Commercial (TC); General Commercial (GC). These design standards also are applicable only to all multi-family residential units and new lots in new subdivisions that include attached single family residential units; single family detached residential lots measuring less than 7,000 square feet in size,

residential lots measuring less than sixty (60) feet in width and only those parts of new subdivisions containing these types of residential units.

B. Adjustments.

The provisions of this Chapter may be adjusted at the discretion of the city decision-making body, as applicable, without the need for a variance, where the city decision-making body finds that an applicant's proposed alternative design meets the intent of the regulations which are to be adjusted, and the proposed design provides compatibility between the proposed development and uses adjacent to the subject site. Where this Chapter provides "Guiding Principles," those principles are to be used in evaluating adjustment requests.

C. Guidelines Versus Standards.

The terms "shall" and "must" indicate a code standard. The standard is mandatory but may be adjusted, as described in subsection B, above. Statements of "intent" and code provisions using the word "should" or "encourage" are guidelines. "Guiding Principles" are guidelines. The graphics contained in this Chapter also serve as guidelines; however, some graphics also reference a quantitative standard (e.g., percentage or dimensions). While guidelines are discretionary in nature, they must be addressed by the applicant, and the city decision-making body may apply them as mandatory requirements in situations where the applicant has requested code adjustments.

17.11.030 DOWNTOWN MIXED USE AND COMMUNITY MIXED USE ZONES - COMMERCIAL DEVELOPMENT. In addition to other applicable regulations, the following architectural and site design standards are applicable to all development other than single family and duplex residential developments, in the Downtown Mixed Use (DMU) and Community Mixed Use (CMU) zones.

A. Guiding Principles

New buildings and exterior remodels are expected to honor the historical development pattern and character of downtown Fruita. While many communities attempt to "create" or "re-create" an urban downtown of their own, Fruita already has a downtown containing a mixture of historic buildings and contemporary buildings, a large central plaza, and attractive residential neighborhoods in and around the downtown area. Fruita's Mixed Use zones are intended to support traditional downtown and village commercial development. New development and redevelopment should support a walkable and attractive area with shopping, restaurants, residences, parks, and civic, office and other employment centers. The building design standards draw on historic elements of the downtown while allowing for a contemporary interpretation of Fruita's history. It is not the intent of the City of Fruita to create an architectural theme or to freeze time, but rather to ensure that new buildings, remodels and redevelopment fit within the context of their historic surroundings, as applicable, and support compact, walkable districts. The key elements of mixed use development are summarized as follows:

1. Architecture based on local vocabulary of building styles and elements, including compatibility with historic structures, where applicable.
2. Building height and articulated facades that create a sense of street enclosure at a human scale.
3. Provide appropriate design standards for the Downtown Core (South of Pabor) and the adjacent Downtown Mixed Use neighborhood (between Pabor and Ottley).
4. Provide appropriate design standards for commercial and mixed use developments in the Community Mixed Use zone.
5. Transition building height between the Mixed Use zones and the adjacent residential neighborhoods.
6. Require the use of contextually appropriate materials, textures and colors.
7. Promote a storefront character (windows, pedestrian shelter, furnishings, etc.) within planned commercial centers.
8. Encourage a diversity of building facades and rooflines that fall into a consistent rhythm.
9. Promote corner lots as focal points with furnishings and public art.



B. Building Design Standards:

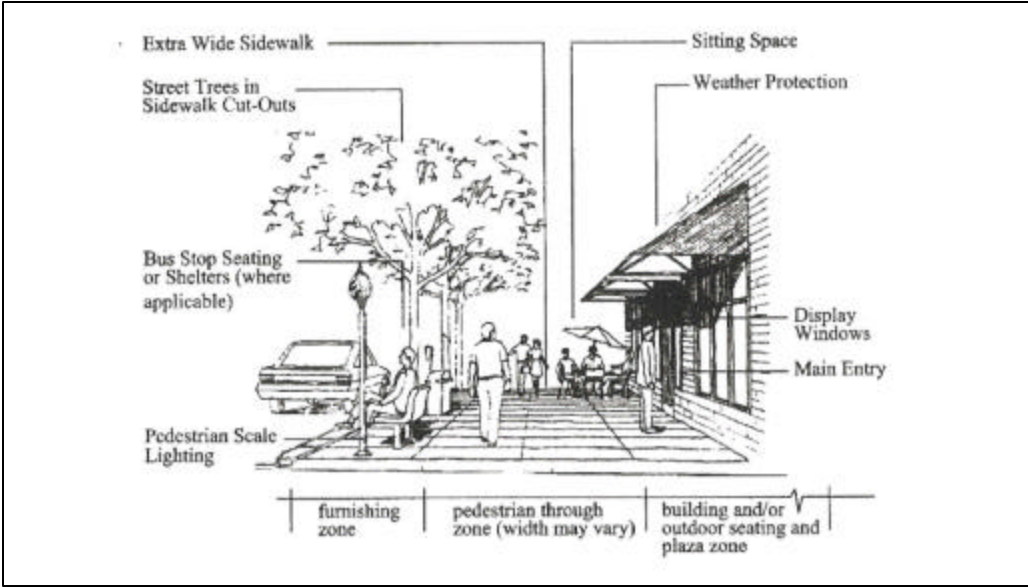
1. Height.

- a. Maximum Height. The maximum allowable height is five (5) stories in the DMU zone Downtown Core and four (4) stories for buildings in the CMU zone that mix residential and commercial land uses, except that buildings, or portions of buildings, located less than one hundred (100) feet from Elm Street south of Pabor Ave. and north of Highway 6 & 50 shall not exceed thirty-five (35) feet in height. The maximum height of all portions of a building that are within one hundred (100) feet of a single family dwelling shall step-down in roof elevation, i.e., from fifty (50) feet to thirty-five (35) feet to provide a more sympathetic scale with adjacent single family dwellings.
- b. Minimum Height. New buildings constructed within the Downtown Core and abutting Aspen Avenue shall be built to a height of not less than twenty-two (22) feet to maintain an intimate, pedestrian scale relative to the street, and a sense of street enclosure. Single story buildings in the Downtown and Community Mixed Use zones shall incorporate parapets that reach the minimum required height.

2. Setback.

- a. Zero Front Setback Required. All non-residential buildings, including mixed use buildings

containing residential and commercial uses, shall maintain a zero setback from a street property line. This standard is met when at least fifty (50) percent of the abutting street frontage has a building placed at the street property line, as generally depicted below.



Example of Zero Setback

Exceptions:

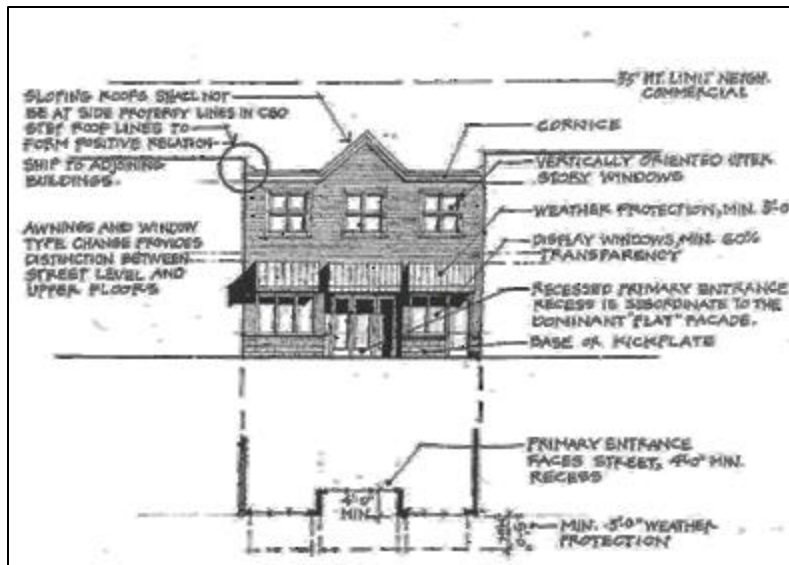
An exception to the zero setback regulation may be approved or required in the following situations:

1. Where a proposed building is adjacent to a single family dwelling.
 2. Where the sidewalk width is extended for public use, or a public plaza is proposed to be placed between the building and public right-of-way. Exceptions may also be made for planter boxes incorporated into the building wall, provided the planter box does not exceed a height of thirty (30) inches above sidewalk grade.
 3. Where a public utility easement or similar restricting legal condition makes conformance with the zero setback impracticable, the building shall instead be placed as close to the street as possible given the legal constraint, and pedestrian amenities (e.g., plaza, courtyard, landscaping, outdoor seating area, etc.) shall be provided within the street setback in said location.
- b. Side and Rear Yards. Side or rear yard setbacks shall conform to applicable building codes. The city decision-making body may require additional setbacks where necessary for storm water drainage, vision clearance at intersections, access to utilities, or similar purposes.

- c. Right-of-Way. The city may allow the placement of pedestrian amenities; such as, street furnishings, canopies, awnings, signs and similar features in the sidewalk right-of-way, subject to Site Design Review.

3. Building Form

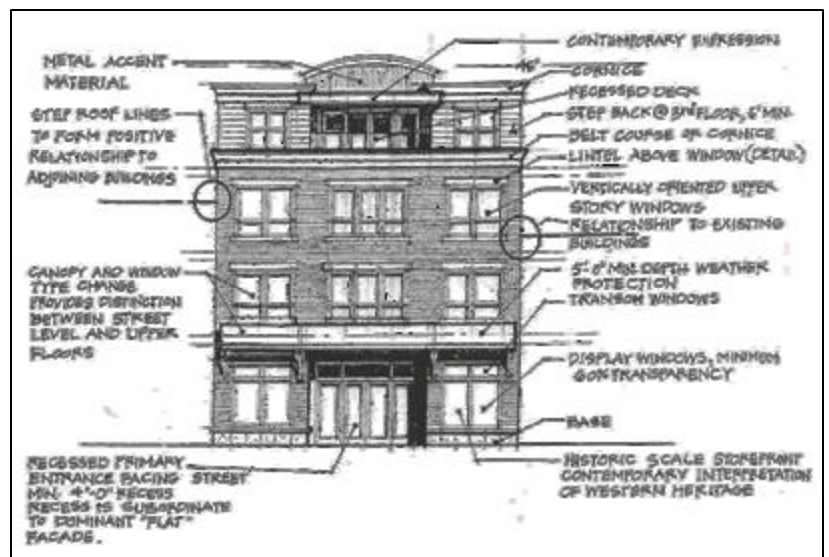
- a. Overall Form. Architectural designs shall address all four (4) sides of a building in the DMU and CMU zones. The predominant form in the Downtown Core is a generally “flat” elevation with any recesses, projections, or rounded corners (“articulations”) appearing subordinate to the dominant rectangular form. The predominant form in the Downtown Mixed Use zone may be similar to the Core, or it may be more residential in character and contain pitched roofs, porches, bay windows and similar features. New buildings should reflect the predominant form, while expressing individuality.



Example of Building Form (<35' height)

4. Storefront Character

- a. Fenestration (Windows and Doors). Except as approved for parking structures or accessory structures, buildings shall provide display windows and windowed doors to express a storefront character. The ground floor, street-facing elevation(s) of all buildings shall comprise least



sixty (60) percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or thirty (30) inches above the sidewalk grade, whichever is less) and a plane seventy-two (72) inches above the sidewalk grade. Upper floors may have less window area, but should follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices. Buildings without a street-facing elevation, such as those that are setback behind another building and those that are oriented to a civic space (e.g., internal plaza or court), shall meet the sixty (60) percent transparency standard on all elevations abutting civic spaces(s) and elevations containing a primary entrance. All side and rear elevations, except for zero lot line/common wall elevations (where windows are not required), shall provide no less than thirty (30) percent transparency. Where an exception to the window transparency requirement is made for parking garages or similar structures, the building design must incorporate openings or other detailing that resembles the window patterns (rhythm and scale) found on adjacent buildings. Storefronts that resemble suburban strip malls (e.g., picture windows extending to near grade level) and those that use reflective glass, clerestory windows and/or similar non-traditional features are not permitted.

- b. Street Level Entrance. All primary building entrances shall open to the sidewalk and be ADA accessible. Primary entrances above or below grade may be allowed where ADA accessibility is provided.
- c. Street Level/Upper Floor. Building elevations shall contain detailing that visually defines street level building spaces (storefronts). The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials and/or fenestration.

5. Building Mass

The third story, and/or any portion of a building exceeding twenty-eight (28) feet in height, shall step-back at least six (6) feet from the outer plane of the building. The purpose of the height step back is to maintain a small town appearance and scale as viewed from the street and to provide for solar gain and light filtering down to the street. (See also, subsection B.1 Height, above.)

6. Openings

- a. Ground Floor Windows. Ground floor elevations shall conform to subsection B.4.a, above, and must contain windows that are framed, for example, by piers or pilasters (sides); awnings, canopies or trim/hoods (tops); and kick plates or bulkheads (base). Decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features) is encouraged.
- b. Upper Floor Windows. Upper floor window orientation shall primarily be vertical, or have a width that is no greater than height, consistent with the Western vernacular. Paired or

grouped windows that, together, are wider than they are tall, shall be visually divided to express the vertical orientation of individual windows.

- c. Pedestrian Entrances. Ground level entrances shall be at least partly transparent to encourage an inviting and successful business environment. This standard may be met by providing a door with a window(s), a transom window above the door, or sidelights beside the door. Where ATMs or other kiosks are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter.
- d. Corner Entrances. Buildings on corner lots shall have corner entrances or the building plan shall provide for a corner plaza consistent with Section 17.11.030(C), below, or the building shall provide architectural features (e.g., alcove with seating or artwork) at the corner that emphasizes the corner as a civic space.

7. Horizontal Rhythms

- a. Traditional Lot and Building Pattern. Buildings must respect the traditional lot pattern and building rhythm of the downtown and/or adjacent residential neighborhood, as applicable, by incorporating rhythmic divisions in all elevations. As a general guideline, front elevations should be articulated not less than once every twenty-five (25) feet. Articulation should be subtle. For example, slight offsets in a building elevation, roofline and/or the rhythmic placement of windows, pilasters, awnings, trim, art/medallions, or other detailing and ornamentation are preferred. Abrupt divisions, such as clashing paint colors, should be avoided. Side and rear elevations may be articulated less frequently but should complement the overall building design. The city may require detailing on a zero-lot line elevation to reduce the apparent scale and avoid blank walls (i.e., until an abutting property develops).



- b. Horizontal Lines. New buildings and exterior remodels shall follow prominent horizontal lines existing on adjacent buildings at similar levels along the street frontage. Examples of such horizontal lines include: the base below a series of storefront windows; an existing awning or canopy line, or belt course between building stories; and/or an existing cornice or parapet line.



Example of appropriate articulation and rhythm using architectural bays, windows, off-sets, detailing, and weather protection (above).

Exceptions: Where existing buildings do not meet the city's current architectural standards, a new

building may establish new horizontal lines.

- c. Ground Floor/Upper Floor Division. A clear visual division shall be maintained between the ground level floor and upper floors, for example, through the use of a belt course, transom, awnings or canopies.

8. Vertical Rhythms

New construction or front elevation remodels shall reflect a vertical orientation, either through breaks in volume or the use of surface details, to divide large walls, so as to reflect the underlying historic property lines, as applicable.

9. Materials and Color

- a. Primary Materials. Exterior building materials shall predominately consist of those materials traditionally found in Fruita's downtown or others indigenous to the intermountain West, including brick, stone (e.g., limestone, rhyolite, granite, etc.), adobe, adobe brick, slump block, stucco, split block, and painted or natural wood. (See examples in sidebar.) Pitched roof materials shall be wood or asphalt singles, or standing rib seam sheet metal-matte finish. Roof colors must be warm earth-tones such as ash, light charcoal, light red (sandstone) or olive green, except flat roofs may be any non-reflective color and finish. All windows and doors must have trim that is at least four (4) inches deep. Rough-hewn wood, timbers and metals may be used as accents but not as the primary exterior cladding. Substitute materials that are equal in appearance and durability may be approved.
- b. Change in Materials. Elevations shall incorporate changes in material that define a building's base, middle and top and create visual interest and relief. Side and rear elevations that do not face a street, pedestrian access way or plaza may utilize changes in texture and/or color of materials in the interest of affordability, provided that the design is consistent with the overall composition of the building.
- c. Secondary Materials. Any of the materials listed above may also be used as secondary materials or accents. Metals; such as, copper, steel, iron, bronze and similar



Examples of appropriate materials.

appearance metals may be used as trims or accents (e.g., flashing, weather protection features, ornamentation, etc.) when non-reflective and compatible with the overall building design.

- d. Color. Color schemes should be simple and coordinated over the entire building to establish a sense of overall composition. Color schemes should tie together signs, ornamentation, awnings, canopies and entrances. There shall be no more than one base color for each twenty-five (25) feet of the front elevation; one base color for the entire front elevation is preferred. Using only one or two accent colors is also preferred, except where precedent exists for using more than two colors with some architectural styles. Natural wood finishes are appropriate for doors, window sashes and trim, signs, canopies and other architectural accents. Reflective, luminescent, sparkling, and “day-glow” colors and finishes are not permitted. Metals shall be finished in mute, earth-tones or otherwise burnished to minimize glare.
- e. Restoration and Rehabilitation. Restoration and rehabilitation projects should incorporate original materials and design elements (e.g., previously covered over), to the extent practicable, and in compliance with Chapter 17.37.

10. Pedestrian Shelters

Awnings, canopies, recesses or similar pedestrian shelters shall be provided along at least thirty (30) percent of a building’s ground floor elevation(s) where the building abuts a sidewalk, civic space (e.g., plaza), pedestrian access way, or outdoor seating area. Pedestrian shelters used to meet the above standard shall extend at least five (5) feet over the pedestrian area, be proportionate to the building in its dimensions, and not obscure the building’s architectural details. Pedestrian shelters shall align with one another to the extent practicable. Use of colored canvas (not plastic) awnings and wood canopies, consistent with historical styles, is encouraged, though metal and plexi-glass canopies may be considered.

Exception: The city may reduce the minimum shelter depth upon finding that existing right-of-way dimensions or building code requirements preclude a larger shelter.

11. Mechanical Equipment

- a. Building Walls. When mechanical equipment, such as utility vaults, air compressors, generators, antennae, satellite dishes, or similar equipment, must be installed on a building wall, it shall be oriented away from all streets. Where such equipment is installed on a side or rear building elevation and is adjacent to an alley, access way, or civic space, its appearance shall be minimized using materials and/or colors that are similar to those used on the subject building. Standpipes, meters, vaults and similar equipment shall not be placed on a front elevation when other practical alternatives exist; such equipment shall be placed low on a side or rear elevation to the extent practical.

- b. Rooftops. Rooftop mechanical units shall not be visible from the street, pedestrian access way or civic space. Such units should be screened behind a parapet wall or painted with muted, earth-tone colors that make them visually subordinate to their backgrounds.
- c. Ground-Mounted Mechanical Equipment. Ground-mounted equipment (e.g., generators and air compressors) shall be limited to side or rear yards and screened with fences or walls constructed of materials similar to those on adjacent buildings. Hedges may also be used as screens where there is adequate sunlight and irrigation to ensure their successful growth. The city may require additional setbacks and/or noise attenuating equipment to promote compatibility with adjacent residential uses.
- d. Civic Spaces. Mechanical equipment and garbage storage areas are not permitted within the civic space(s) required under subsection C.1. The city may require that such facilities be screened completely from view and set back from a civic space for aesthetic reasons and to minimize odors or noise.

12. Historic Preservation.

For additions or rehabilitations to existing structures that are listed on the National, State or Local historic register, the following standards shall apply in addition to requirements of Chapter 17.37:

- a. Additions and Rehabilitation. Additions and rehabilitations should match the original materials, windows, doors, trim, and colors. If the addition is a wing, it should be subordinated to the original building in design, i.e. the roof should be lower and the mass and bulk of the new addition should be less. If the addition is an extension or lengthening of the original building, introduce a setback to preserve the corner of the original and hence the design arrangement and balance of the original facade should be provided.
- b. Cornices and Decorative Elements. Original members, brackets, molding, etc. should be preserved if at all possible. Replacement of missing parts should be exact copies of the original. Avoid mixing new and old original members on one facade unless the match is perfect. Aluminum and plastic awnings and door hoods are not allowed. Canvas awnings in appropriate colors are allowed.
- c. False Fronts and Applied Facades. Avoid fake modernization or concealment of the original façade. When an existing building has a well developed facade and is the product of good workmanship, efforts should be made to retain as much of the original materials and detailing as possible or restore them to maintain the building's integrity.

C. Open Space and Civic Space:

The provision of attractive and functional civic spaces is as important as building design and centralized parking areas to the success of the downtown and Fruita's mixed use commercial

centers. Therefore, the city requires that all new commercial developments and redevelopment projects in these districts contribute their proportionate share of civic space.



Civic spaces should serve as focal points and gathering places, giving the downtown a unique identity and sense of place. Pedestrian amenities may include, but are not limited to outdoor seating areas or cafes, pedestrian access ways, weather protection, plazas, benches, public art, and street furnishings such as bicycle racks and pedestrian lighting (e.g., bollards) at crossings.

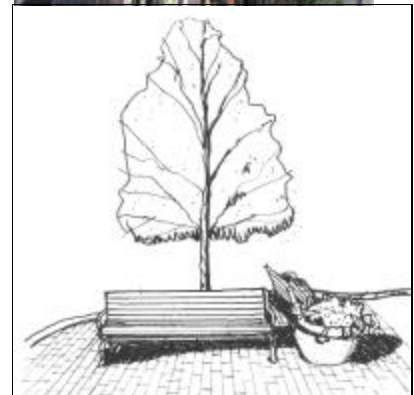
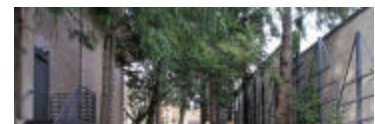
Standards:

1. **Civic Space Standard.** At least three (3) percent of every development site shall be designated and improved as civic space (plaza, landscaped courtyard, or similar space), with the highest priority locations being those areas with the highest pedestrian activity (e.g., street corners and pedestrian access ways), as generally designated in the examples accompanying this subsection. Improvements shall conform to subsection C.4, below.

Exception for Minor Projects: Building additions and remodels are not required to provide civic space when proposed building costs are estimated to be less than fifty (50) percent of the existing Assessor's appraised value of improvements on the subject site. Assessor's appraised value shall be the value of record at the Mesa County Assessor's Office.

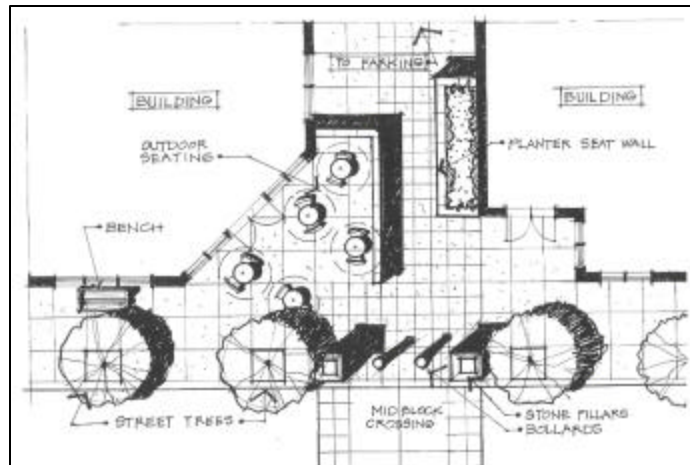
Exception for In Lieu Fee: The city may find that the creation of civic space is not practicable based on the project location or other relevant factors. In such cases, the city may accept an in lieu fee which shall be calculated in accordance with Chapter 17.19.

2. **Dimensions.** All civic spaces shall have dimensions of not less



than eight (8) feet wide and deep, and have a surface area of not less than forty-eight (48) square feet.

3. **Public Access.** Such areas shall abut a public right-of-way or otherwise be connected to and visible from a public right-of-way by a sidewalk or pedestrian access way; access ways shall be identifiable with a change in paving materials (e.g., pavers inlaid in concrete or a change in pavement scoring patterns and/or texture). Where a right-of-way connection is not possible, the owner shall be required to provide a public access way easement to the civic space.
4. **Pedestrian Amenities Required.** Where civic space is required, it shall contain pedestrian amenities such as plaza space, extra-wide sidewalks (i.e., outdoor café space), benches, public art, pedestrian-scale lighting, shade structures, way finding signs, as approved by the city decision-making body, or similar pedestrian areas. Where a civic space adjoins a building entrance it should incorporate a weather protection canopy, awning, pergola, or similar feature.



Pedestrian amenities; example of outdoor seating areas with shade and pedestrian access way leading to internal parking area.

Exception: Building additions and remodels that are exempt under subsection C.1 above, are not required to provide pedestrian amenities, though they are encouraged to do so. In such cases, the city may consider the voluntary provision of pedestrian amenities in approving adjustments to other applicable standards required under this Chapter.

D. Access and Circulation:

Access in the Downtown and Community Mixed Use zones is to be provided as follows:

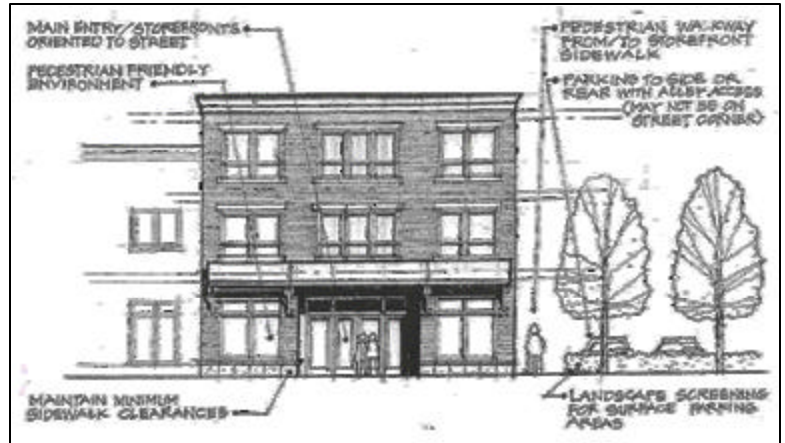
Standards:

1. **Pedestrian Access.** Walkways linking the pedestrian system of the block to every building entrance and civic space on a proposed development site are required. Walkways shall be

constructed of scored concrete or pavers and have a width of not less than four (4) feet; additional width may be required where necessary due to projected use of the walkway.

- 2. Vehicle Access and Driveways.** New vehicle access onto Aspen Avenue is not allowed; when new vehicle access is required, it shall be taken from streets other than Aspen Avenue. Where an existing driveway or alley provides adequate access to a site, such access must be utilized before any new street access is created.

- 3. Drive-up and Drive-Through Uses.** New drive-up/drive-through facilities (e.g., windows, ATMs, etc.) are not permitted in the Downtown Core within forty (40) feet of Aspen Avenue.



- 4. Off-Street Parking and Loading.** Except as approved for parking structures (e.g., garages or underground parking), parking is to be provided primarily in on-street parking spaces and in shared parking areas internal to each block, either

Parking is to be placed beside or behind (not in front) of building. Parking must be buffered from adjacent streets and pedestrian ways.

beside or behind buildings. Parking shall conform to the minimum parking standards of Chapter 17.39. (Note reduced parking standards within the Downtown Core.) Parking and vehicle circulation areas abutting a sidewalk, public right-of-way, or pedestrian access way shall provide a landscape screen of not less than four (4) feet in width and three (3) feet in height, or a decorative wall, landscape wall, or other buffer. Loading docks and trash storage areas in parking lots shall be located to the side or rear of buildings and screened from public view.

E. Landscaping.

- 1. Plant Material.** Landscaping must consist of plant material covering not less than fifty (50) percent of the non-developed areas within three (3) years of planting. Use of desert landscaping or low water usage plant species as identified by the Colorado State University Tri-River Extension Service is required.

Exception: The required plant material coverage may be reduced to twenty (20) percent of all non-developed surfaces where a proposed building incorporates a green (landscaped) roof.

- 2. Parking Areas.** Parking area(s) shall be landscaped, as required by Section 17.39.070.G. Landscaping must consist of desert landscaping or drought tolerant plant species as identified by the Colorado State University Tri-River Extension Service.

17.11.040 DEVELOPMENT IN TOURIST COMMERCIAL AND GENERAL COMMERCIAL

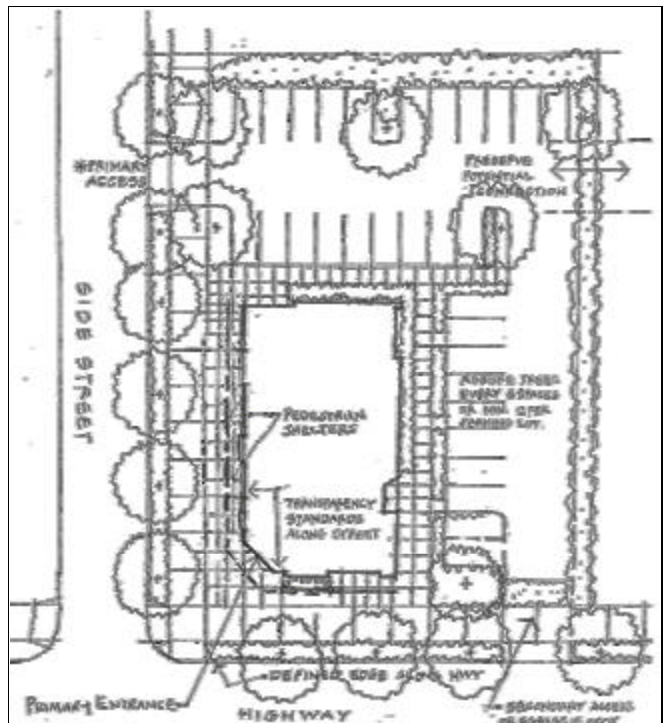
ZONES. In addition to other applicable regulations, the following architectural and design standards apply to development and construction in the Tourist Commercial and General Commercial zones:

A. Guiding Principles

1. Create distinct commercial centers.
2. Define the edges of Highway 6 & 50 and Highway 340 with attractive landscape buffers and transitions between commercial uses and the roadway.
3. Orient buildings to streets or, where buildings are to be setback from Highway 6 & 50 or Highway 340, require entrances to be oriented to pedestrian ways and require appropriate landscaping between parking lots and the highway.
4. Improve on-street parking opportunities where practical.
5. Use materials and colors that blend with the desert landscape.
6. Use desert landscaping or drought tolerant landscaping for context-appropriate design and to conserve water
7. Maintain views of Colorado National Monument, Book Cliffs, Big Salt Wash, and other natural features, where practicable.
8. Facilitate the development of a continuous pedestrian network and bicycle ways extending along highway frontages and connecting with adjacent neighborhoods.
9. Reduce reliance on the highway for local vehicle trips (e.g., from one store to another store in the same vicinity).
10. Develop an interconnected system of driveways or alleys with shared access to minimize traffic conflicts on Highway 6 & 50.

B. Site Design

Due to the wide variety of site conditions and challenges posed by existing parcel configurations and development patterns, the city has adopted flexible, performance based site design standards for its Tourist Commercial (TC) and General Commercial (GC) zones. In determining the specific access, circulation, building orientation, and street frontage requirements for a particular project, the applicant, in consultation with city staff, shall select from the following prototypes, as specified in subsequent code sections: 1) Corner property; 2) Front



entrance at street; 3) Building at street with side entrance; 4) Building setback with side entrance; 5) Parking in front with joint access/shared driveway; 6) Parking in front without joint access/shared driveway.

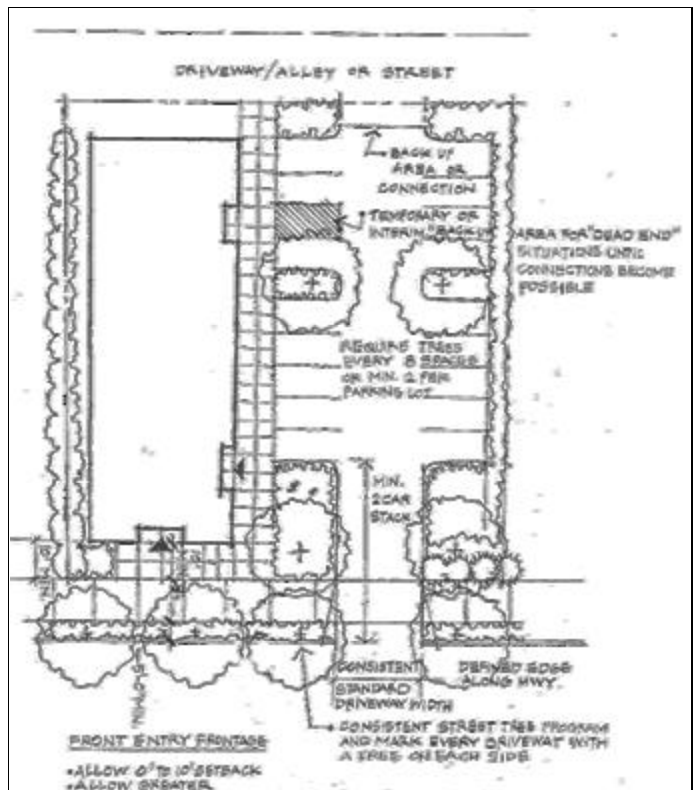
1. Corner Property (Performance Standard #1)

On corner properties, a primary building entrance shall be oriented to the street corner and shall be connected to it by a concrete walkway not less than six (6) feet in width. Primary building entrances shall be located within twenty (20) feet of a street right-of-way and shall be oriented to the street corner where practical. The building shall meet transparency and weather protection standards (Subsection C, Building Design below) along all street-facing elevations. The twenty (20) foot build-to line may be increased where a pedestrian plaza, outdoor seating area, courtyard, or other civic amenity is provided between the building and street. Where it is not practical to locate the primary building entrance within twenty (20) feet of the street right-of-way and parking is provided between the building entrance and street, then a ten (10) foot wide minimum landscape screen shall separate all off-street parking areas from adjacent right-of-ways. The screen may be interrupted for walkways required by code. A five (5) foot landscape screen shall cover any blank building walls (i.e., lacking windows and weather protection).

Highway access is subject to CDOT review and approval. The city and/or CDOT may require that access be taken from a secondary street or shared driveway (where applicable), or the applicant may be required to provide for a future driveway connection where the site abuts a vacant or redevelopable parcel, with a temporary turnaround.

2. Front Entrance at Street (Performance Standard #2)

Primary building entrances shall be located within twenty (20) feet of a street right-of-way and shall be connected to the right-of-way by a concrete walkway not less than six (6) feet in width. The building shall meet transparency and weather protection standards (Subsection C, Building Design below) along all street-facing elevations. The twenty (20) foot build-to line may be increased where a pedestrian plaza, outdoor seating area, courtyard, or other civic amenity is provided between the building and street. Where it is not practical to locate the primary building entrance within twenty (20) feet of the right-of-way and parking is provided



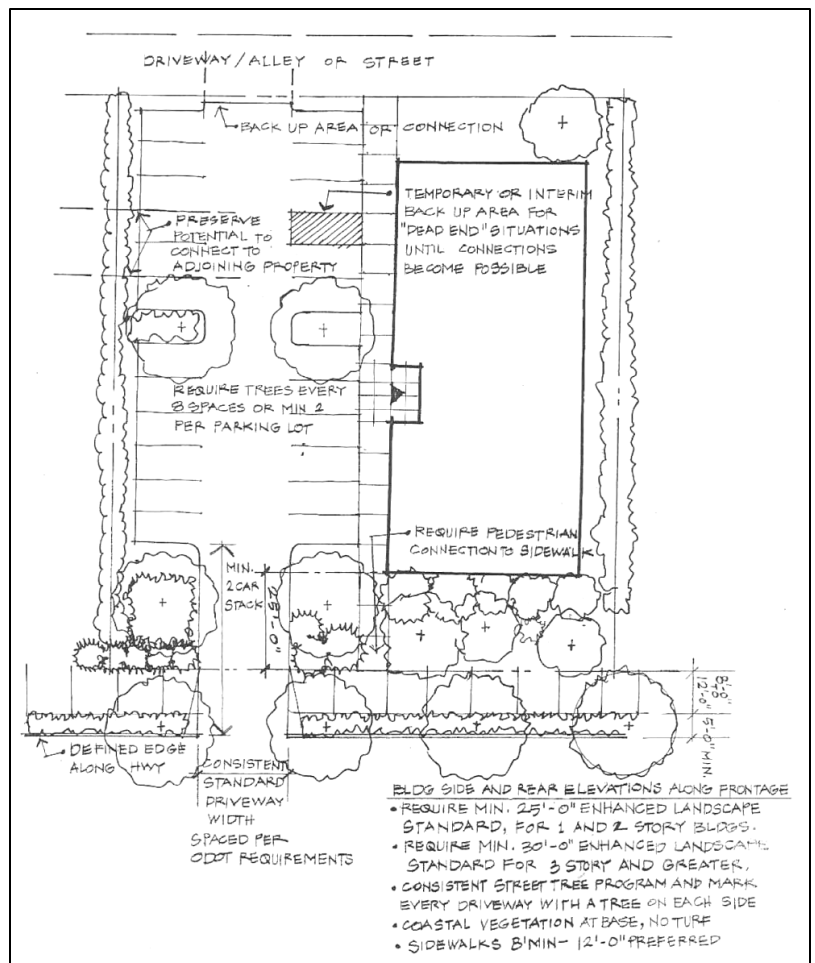
4. Building Setback with Side Entrance (Performance Standard #4):

Where a building is oriented to an internal parking area, it may have its primary entrance placed on a side elevation and the following standards shall apply: Except as provided below, all street-facing elevations and elevations on which a primary building entrance is placed, shall meet the transparency and weather protection requirements of Subsection C below, Building Design. There shall be no parking placed between the building and any street; buildings with primary entrances more than forty (40) feet from the street right-of-way need not meet weather protection and transparency standard along the street frontage provided that a landscape buffer of twenty-five (25) feet in width shall be required, as indicated by the graphic on this page; plantings shall be sufficient size and species to screen all blank walls (i.e., those not conforming the transparency requirements of this code).

Highway access shall be subject to CDOT review and approval. The city and/or CDOT may require that access be taken from a secondary street or shared driveway (where applicable), or the applicant may be required to provide for a future driveway connection where the site abuts a vacant or redevelopable parcel, with a temporary turn around.

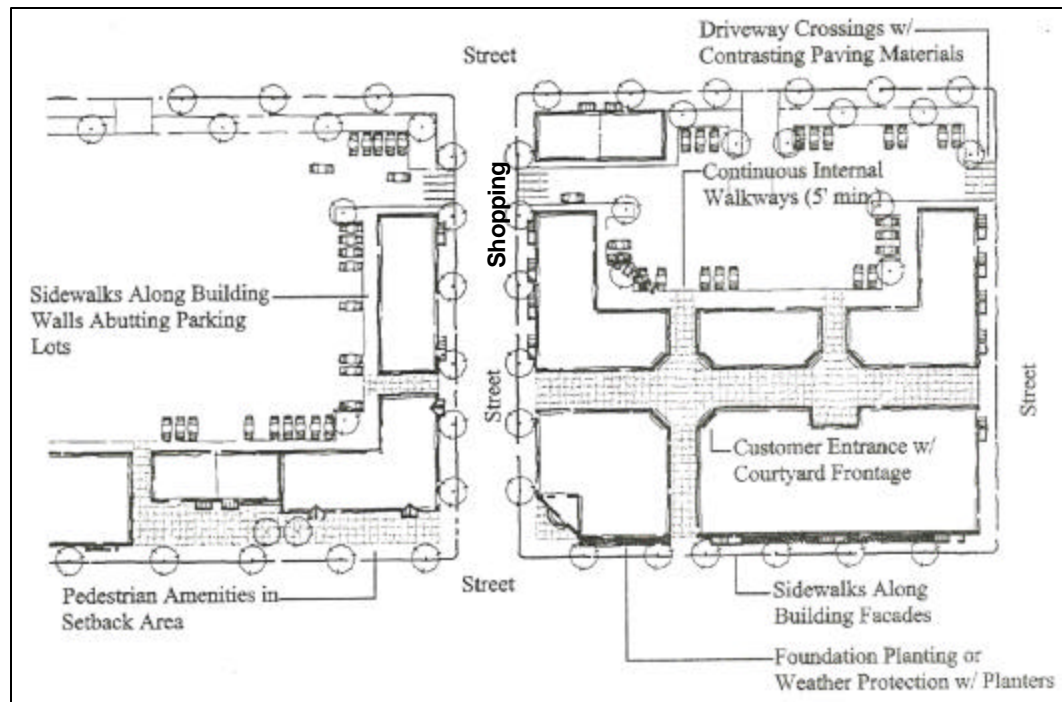
5. Parking in Front (Performance Standard #5)

Where multiple buildings and/or building pads are set back from the street right-of-way behind surface parking and oriented to internal driveways instead of streets due to existing site conditions (e.g., limited highway access, railroad, canal frontage, etc.), such driveways shall be designed as “shopping streets.” Shopping streets shall contain, at a minimum, on-street parking, sidewalks/walkways with raised curbs, street trees and pedestrian lighting, as generally shown below. Such buildings may have their primary entrance(s) placed along the shopping street instead of a public street; in such cases, primary building entrances shall be within ten (10) feet of a concrete five (5) foot minimum width walkway, except where a

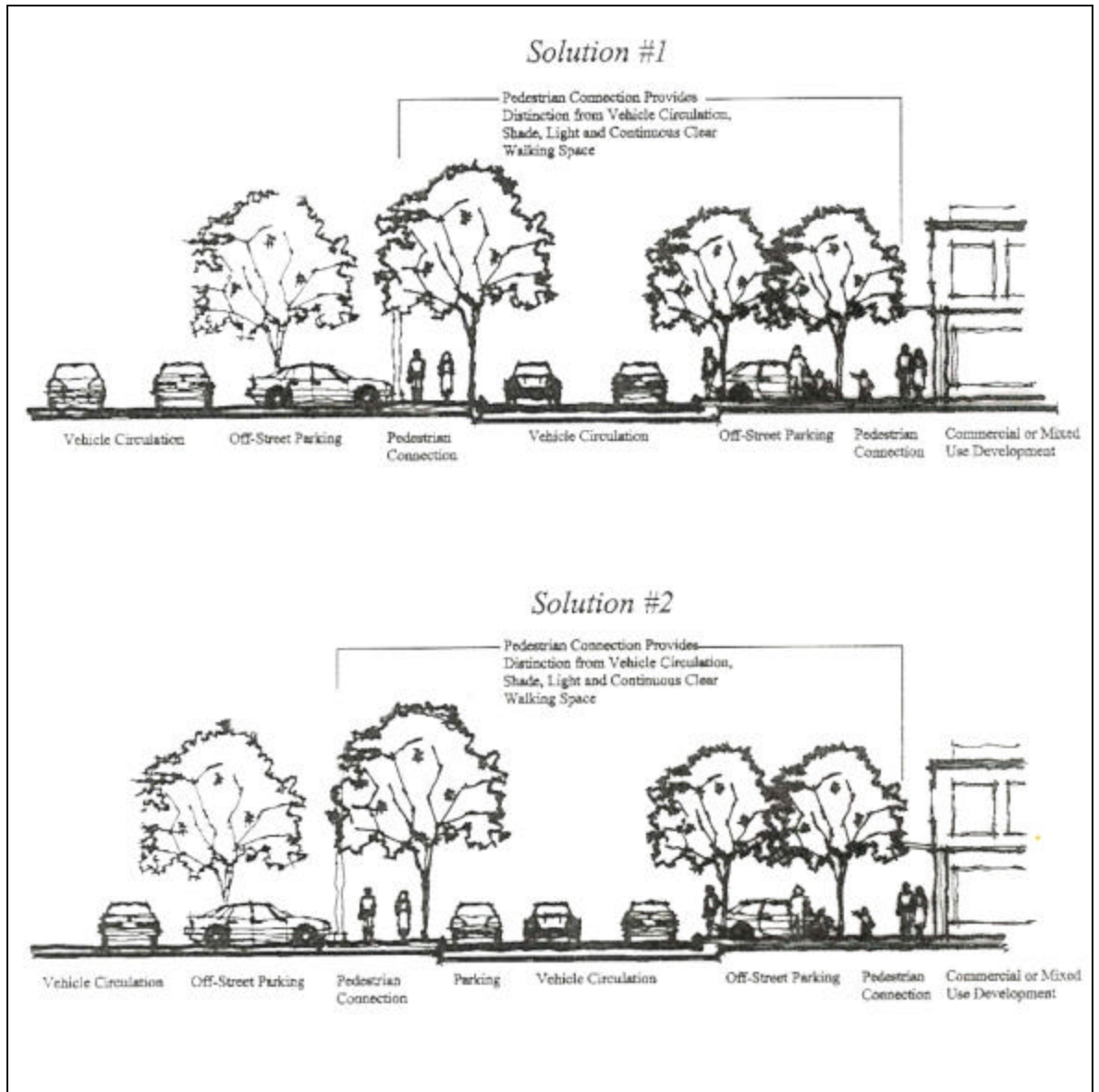


civic space (e.g., plaza, courtyard, or outdoor seating area) is provided the setback may be increased accordingly. Surface parking shall be setback and screened from the highway right-of-way behind a ten (10) foot minimum landscape buffer. All sides of every building facing a street or parking area shall meet the weather protection and transparency standards of Subsection C below, Building Design, and building elevations that do not contain entrances shall have foundation landscaping in a four (4) foot minimum width planting bed or masonry container.

Highway access is subject to CDOT review and approval. The city and/or CDOT may require that access be taken from a secondary street or shared driveway (where applicable), or the applicant may be required to provide for a future driveway connection where the site abuts a vacant or redevelopable parcel, with a temporary turn around.



(See Note Next Page)

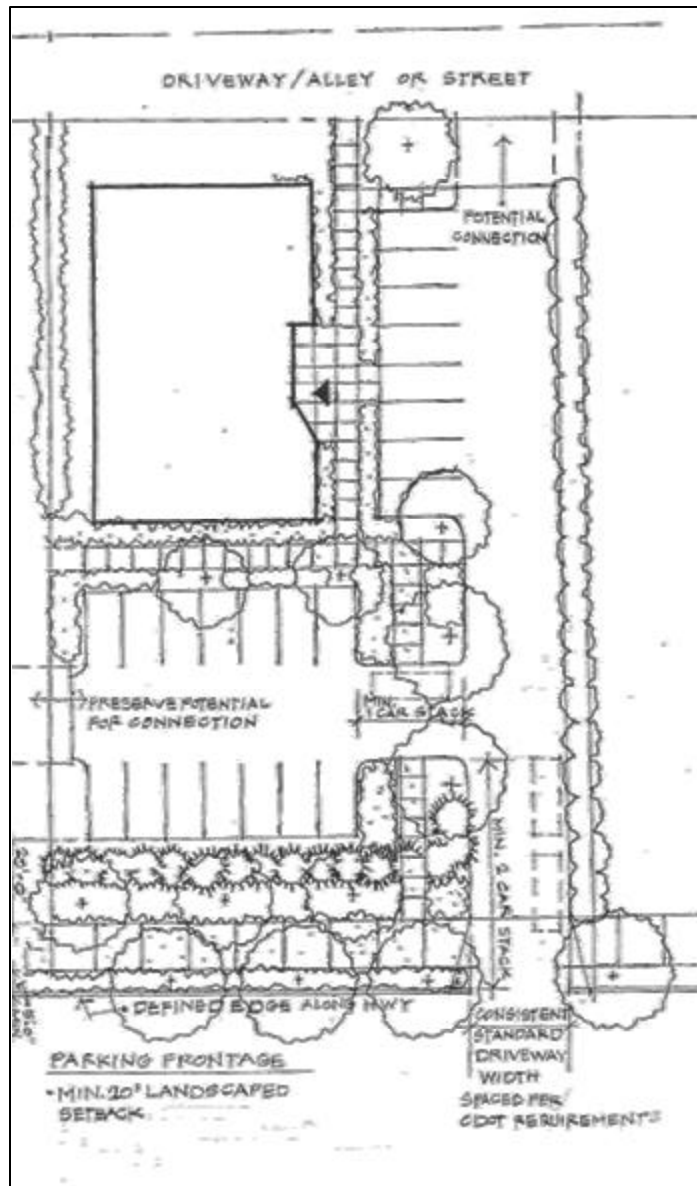


Examples of internal shopping streets that meet the building orientation requirement when building(s) not oriented to the highway (Strings only). Note: The above driveways do not have to extend through to the highway frontage, provided that pedestrian connections are made to required sidewalk(s).

6. Parking in Front without Shopping Street (Performance Standard #6):

Where it is necessary to place surface parking between a building's primary entrance and the street, and it is not possible to develop an internal shopping street as described in subsection 5 above due to the small size of a property, its configuration, or other physical site constraints, then the following standards shall apply: All surface parking and internal drives shall be setback at least twenty (20) feet from the street right-of-way behind a landscape buffer; a six (6) foot minimum width walkway shall connect the primary building entrance to a public sidewalk with three (3) foot minimum width planter strips placed between such walkways and abutting driveways; raised or textured paving with ADA wheelchair accessible ramps shall be provided at all pedestrian crossings of vehicle areas; and provisions shall be made for potential future driveway extensions as adjacent properties develop or street connections can be made.

Highway access is subject to CDOT review and approval. The city and/or CDOT may require that access be taken from a secondary street or shared driveway (where applicable), or the applicant may be required to provide for a future driveway connection where the site abuts a vacant or redevelopable parcel, with a temporary turn around.



C. Building Design

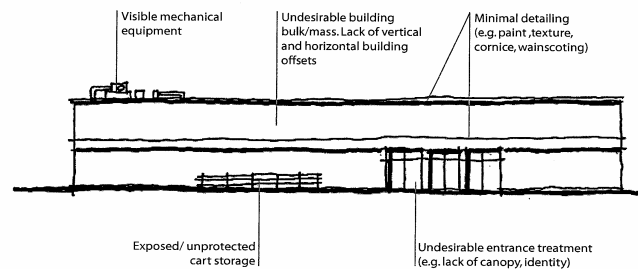
1. Intent:

The building design standards are intended to implement following contextual values:

- a. Building orientation to streets to create a sense of enclosure and human scale
- b. Articulated building facades to break up large volumes and promote human scale
- c. Materials, textures and colors appropriate to the desert landscape
- d. Storefront character (windows, pedestrian shelter, furnishings, etc.) where applicable

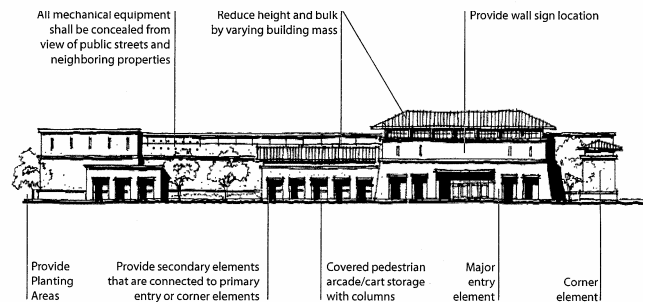
2. Standards:

- a. Overall Design. Architectural designs shall address all four sides of a building with materials, detailing, and color. Architectural elements should wrap around building corners. Where a proposed design is based on the applicant's corporate style guide, as in formula retail stores, restaurants, discount outlets, or similar proposals where a similar building design has been used previously, the applicant must demonstrate that the design has been adapted to fit Fruita's unique location/historical context (Colorado National Monument/Grand Valley) and desert environment.



Large Commercial Massing - Unacceptable

- b. Stepped Rooflines. Height should vary from building to building to avoid a homogenous appearance. This standard is met by using stepped parapets, gables, or slightly dissimilar height from building-to-building.

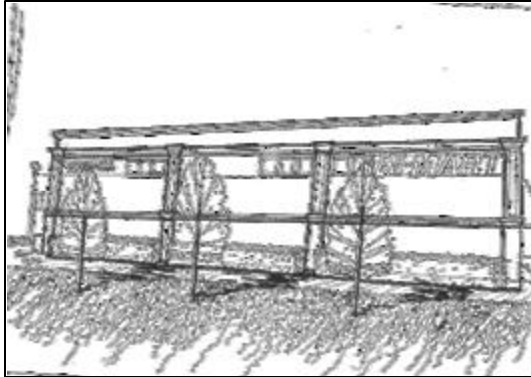


Large Commercial Massing - Acceptable

Examples of acceptable and unacceptable design (roofline, mass, entrances, windows, articulation, landscaping, etc.)

- c. Window Transparency. Building elevations that face a street, parking area, civic space, or open space shall comprise at least forty (40) percent transparent windows, measured as a section extending the width of the street-facing elevation between the building base (or thirty (30) inches above the sidewalk grade, whichever is less) and a plane eighty (80) inches above the sidewalk grade. Upper floors may have less window area, but should follow the vertical lines of the lower level piers and the horizontal definition of spandrels and any cornices.

Where the Community Development Director determines, based on physical site constraints or the functional requirements of a non-residential building, that providing window transparency is not practical, other alternative means of breaking up large elevations (e.g., columns, belt course, and upper story panels/transom, with landscaping) shall be employed. See example below.



Example of exception to window and entrance standards due to site constraints (e.g., grade change)

- d. Primary Entrances. Buildings shall have clearly defined primary entrances that provide a weather-protection shelter for a depth of not less than five (5) feet (e.g., either by recess, overhang, canopy, portico and/or awning) extending from the building entry.
- e. Building Mass. Building elevations shall incorporate offsets or divisions to reduce the apparent building scale and to improve aesthetics. Elevations of a structure shall be divided into smaller areas or planes to minimize the appearance of bulk as viewed from any street, civic space or adjacent property. When an elevation of a primary structure is more than eight hundred (800) square feet in area, the elevation must be divided into distinct planes of not more than eight hundred (800) square feet. For the purpose of this standard, areas of wall planes that are entirely separated from other wall planes are those that result in a change in plane such as a recessed or projecting section of the structure that projects or recedes at least one (1) foot from the adjacent plane, for a length of at least six (6) feet. Changes in plane may include but are not limited to recessed entries, bays, stepped parapets, secondary roof forms (e.g., gables, lower roof sheds, dormers and towers), building bases, canopies, awnings, projections, recesses, alcoves, pergolas, porticos, roof overhangs, columns, or other features that are consistent with the overall composition of the building. The distinction between street level and upper floors shall be established, for example, through the use of awnings, canopies, belt course, or similar detailing, materials and/or fenestration.
- f. Materials and Colors. Exterior materials shall consist of brick, stone, adobe, wood shingle or imitation wood shingle walls, slump block, adobe brick or suitable split block or brick. Wood timbers and metal (brushed steel, iron, copper, or similar architectural-grade metals) may be used on canopies, arbors, trellises, pergolas, porticos, brackets, fasteners, lighting, signage, and other detailing, as appropriate, to provide visual interest and contrast. In general, color selection should complement, not compete with, the surrounding desert

landscape. Warm earth tone colors (e.g., sandstone reds, desert greens and browns) are generally preferred over cool colors, such as blue and white/off-white. Substitute materials that are equal in appearance and durability may be approved.

- g. ATMs and Service Windows. Where walkup ATMs or service windows are proposed on any street-facing elevation, they shall be visible from the street for security and have a canopy, awning, or other weather protection shelter. Where drive-up windows or similar facilities are provided the drive-up window and associated vehicle queuing area shall be setback at least twenty (20) feet from all adjacent rights-of-way. The applicant may be required to install textured pavement (e.g., pavers or stamped concrete) for pedestrian crossings of any drive aisle.
- h. Remodels. The scale and proportion of altered or added building elements, such as the size and relationship of new windows, doors, entrances, columns, weather protection shelters, and other features should be visually compatible with the overall composition of the building (i.e., including building materials, color, detailing, etc.). The decision making body may require modifications to a proposed design to address scale and proportion.

17.11.050 ATTACHED SINGLE FAMILY RESIDENTIAL, MULTI-FAMILY RESIDENTIAL AND SINGLE FAMILY RESIDENTIAL LOTS MEASURING LESS THAN 7,000 SQUARE FEET IN SIZE AND LOTS LESS THAN 60 FEET IN WIDTH.

In addition to other applicable regulations, the following architectural and site design standards are applicable to new lots with attached single family residential dwelling units, multi-family residential dwelling units, detached single family residential lots measuring less than seven thousand (7,000) square feet in size, and single family residential lots measuring less than sixty (60) feet in width and only those parts of new subdivisions containing these types of residential units/lots.

A. Guiding Principles

New buildings and exterior remodels should honor traditional neighborhood development principles, consistent with the desired character and form of Fruita, as expressed by the Community Plan. While many communities attempt to “create” traditional neighborhoods, Fruita already has traditional neighborhoods. The original town plat contains a variety of housing types in both historic and contemporary structures, many with front porches. Fruita’s historic neighborhoods contain both small and large lots, some with alley access and street tree planter strips, and most within walking distance of centrally located open spaces, schools, churches and other community services. However, some areas outside the historic town plat have developed in a manner that is inconsistent with the above traditional neighborhood design principles. The design standards in this section are intended to guide compatible infill development and promote the creation of new, traditional neighborhoods where new subdivisions are proposed. It is not the intent of the City of Fruita Code to create an architectural theme or to freeze time, but rather to ensure that new buildings and remodels fit within the context of their historic surroundings, as applicable, and support the development of new compact, walkable neighborhoods with a variety of housing. The key elements of this Section are summarized as follows:

1. New development and redevelopment should support walkable and attractive neighborhoods with a variety of housing types that are designed to be compatible with adjacent uses.
2. Architecture should provide for compatibility with historic structures where applicable.
3. Provide for street connectivity and pedestrian access and safety both within new developments and between new and existing subdivisions.
4. Integrate open space and parks into the design of new neighborhoods and subdivisions.

B. Applicability

In addition to other applicable regulations, the following site design standards are applicable only to multi-family residential dwelling units and new lots in new subdivisions that include attached single-family residential dwelling units, single-family detached residential lots measuring less than 7,000 square feet in size, residential lots measuring less than sixty (60) feet in width, and only those parts of new subdivisions containing these types of residential dwelling units.

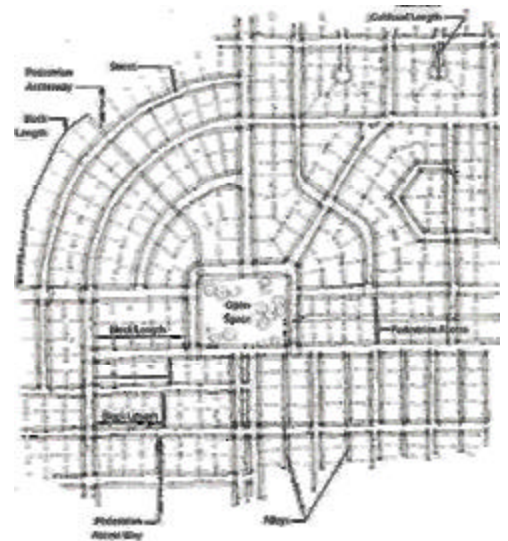
C. Neighborhood Structure and Street Network

1. Purpose

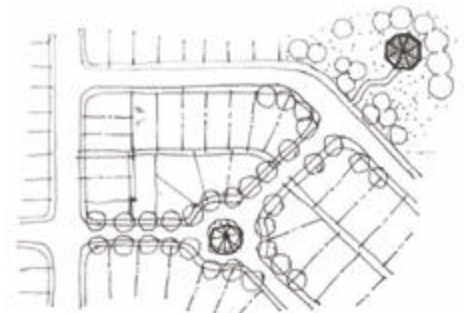
Promote neighborhood circulation with convenient connections via streets and pedestrian and bicycle ways to parks, schools, churches, neighborhood commercial uses (where applicable) and other neighborhood-oriented services and amenities.

2. Guidelines and Standards

- a. Streets, bicycle ways and walkways or trails, as applicable, shall, to the maximum extent practical, create a unifying circulation network that provides convenient routes to destinations without needlessly forcing trips onto the surrounding collector or arterial streets.
- b. Street and alley networks, as applicable, shall, to the maximum extent practical, be configured to minimize cut-through traffic on local residential streets without relying upon the use of cul-de-sacs; where cut-through traffic is unavoidable, street design shall incorporate neighborhood traffic calming features, such as curb extensions (reduced width at intersections), roundabouts at major intersections, traffic circles, or other features,



Neighborhood Structure and Street Network



Traffic calming and connectivity

consistent with the City of Fruita Street System Design Criteria and the City of Fruita Traffic Calming, Pedestrian and Bicycle Plan.

Cul-de-sacs, where allowed, are limited to a maximum length of four hundred (400) feet. A pedestrian access way or trail will be required to connect the end of any cul-de-sac to an adjacent street or trail right-of-way to minimize out-of-direction travel by pedestrians and bicyclists. The city decision-making body may also require the use of pervious paving (e.g., pavers) or stamped concrete on cul-de-sacs to minimize stormwater runoff (impervious surfaces) or to identify cul-de-sacs as community spaces where children play (e.g., basketball hoops, street hockey, etc.).



Pedestrian ways with vehicle loading off alleys for small lots, traffic calming, street alignment to take advantage of vistas.

- c. Streets, pedestrian ways and trails should focus on important vistas; for example, by aligning street axis to provide for views of community buildings, mountains, trees or open spaces.
- d. Block lengths shall provide for at least one street connection for every three to six hundred (300 to 600) feet maximum in block length, except where topographic or access restrictions (e.g., arterial intersection spacing) preclude such connections. Where street connections are not feasible, pedestrian and bicycle pathway/trail connections shall be used to make walking and bicycling within and between developments convenient.

D. Parks and Open Space

1. Purpose

Promote the creative design and use of a wide variety of parks and open spaces.

2. Guidelines and Standards

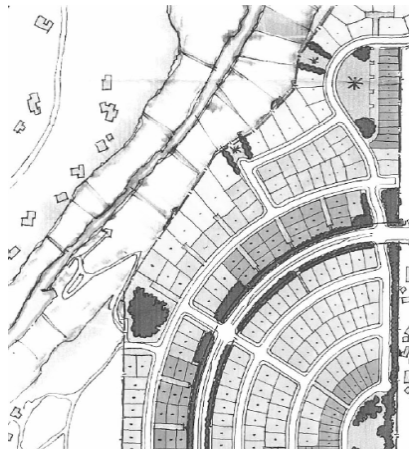
- a. Parks and open spaces should be used to form neighborhood edges and transitions where higher density development is proposed adjacent to lower density development, and where development abuts watercourses, washes, and other natural features.
- b. Parks and open spaces should be collocated with existing or planned school sites, as applicable.
- c. Where a new park of two (2) acres or more in size is proposed, it should be located, configured and designed to maximize pedestrian access from the greatest number of residents in the adjacent neighborhood(s).

- d. Where mixed-use projects are planned with residential and commercial uses proposed, the city decision-making body may require open space areas or parks that serve as central gathering places for residents and employees.
- e. Where a proposed subdivision is adjacent to an existing park, open space or natural area (e.g., wash), the city decision-making body may require the applicant to connect to and/or augment the existing park, open space or natural area with required land dedication, trails, and/or other related improvements, consistent with the provisions of Chapter 17.19 and Chapter 17.29.

E. Unique Fruita Characteristics

1. Purpose

Promote development that is compatible with the natural features of Fruita landscape and promotes Fruita’s traditional neighborhood development patterns, consistent with the Guiding Principles in subsection 17.11.050A.



Development concept addressing topography, views, solar access, wash setbacks, neighborhood buffering, and trail connections.

2. Guidelines and Standards

- a. Streets, blocks, open space areas and trails should be oriented and designed in response to Fruita’s location in the Grand Valley. View corridors to the mountains, washes, open space areas, and canals shall be incorporated into project designs, and lot orientation should allow solar access to individual home sites, to the greatest extent practical.
- b. Developments adjacent to the Little Salt Wash or Big Salt Wash, and those in the foothills of the Colorado



National Monument, McInnis Canyon National Conservation Area or near the Colorado River, shall be designed to respond to the topographic and natural resource values of those areas by limiting grading, incorporating required setbacks and buffering, providing trail connections, and clustering development densities in less environmentally sensitive areas. Development in areas prone to flooding is subject applicable building codes and may be prohibited where an applicant has requested a density bonus under Chapter 17.08 or planned unit development approval under Chapter 17.17 (i.e., development density shall be transferred from the floodplain to more suitable upland areas).

- c. Development shall conform to the natural topography of the site by minimizing cuts and fills. Except as necessary for underground utilities, individual cuts and fills (i.e., for streets and foundations) are limited to no more than eight (8) feet each and no retaining wall shall exceed a height of eight (8) feet without a variance. Terracing may be allowed by the city decision-making body, as necessary, due to existing topography.
- d. Developments subject to the requirements of this Section and proposed within one hundred (100) feet of a designated historic landmark are required to demonstrate compatibility with the adjacent landmark in terms of building height, setbacks, building form, architectural detailing, materials, and site design (parking, circulation and landscaping). The city decision-making body shall approve, approve with conditions, or deny a proposed development under this subsection based on its finding of compatibility as described above and also as described in Section 17.07.080, Land Use Compatibility Criteria.

F. Alleys and Shared Driveways

1. Purpose

Enhance the safety, appearance, and overall quality of Fruita’s neighborhood streets by providing options and incentives for alleys and/or shared driveways serving small lot developments and multifamily projects where garages and other parking areas are setback and oriented away from neighborhood streets. Alleys or shared driveways are encouraged in new subdivisions and in redevelopment projects where the subject block has, or historically had, an alley. The following provisions are intended to reduce or eliminate traffic conflicts and aesthetic problems associated with frequent garage openings and driveway approaches abutting neighborhood streets. Alleys and shared driveways also allow homes to front onto parks and open space areas without a road separating the homes from such features. Alleys can also provide additional off-street parking where needed. Finally, alleys can provide effective land use and density transitions in the middle of a block



Alley with rear backing distance, center "V" drainage and landscaping.

instead of along street frontages, where it is more desirable to have similar building types face one another.

2. Guidelines and Standards

- a. Alleys or shared driveways may be allowed where developments face major streets to which individual driveway access is not allowed but houses are oriented to the street (e.g., with deep front yard setbacks) is desired.
- b. /The city decision-making body may require alleys or shared driveways to be incorporated into a subdivision design where lot sizes are less than seven thousand (7,000) square feet.
- c. Alleys and shared driveways should align so that drivers entering an alley or shared driveway can see any on-coming vehicles.
- d. Dead-end alleys and shared driveways shall be less than one hundred fifty (150) feet long, except as allowed with an approved emergency vehicle turnaround.
- e. Where an alley or shared driveway also serves as a required emergency apparatus (fire) lane, it shall conform to the applicable design criteria and standards for such lanes.



Shared driveways
(upper right) abutting arterial

17.11.060 MIXED USE DEVELOPMENTS IN THE COMMUNITY MIXED USE ZONE

1. Purpose

The following provisions are intended to supplement the commercial design standards in Chapter 17.11.030 and encourage the development of successful mixed use centers integrating a variety of housing and neighborhood-oriented commercial uses and services that are compatible with surrounding residential uses and are supported by a well-planned network of streets, blocks, pedestrian and bicycle ways, and parks and open spaces. For the purpose of Section 17.11.050, “commercial use,” “commercial development,” and “commercial center” refer to the commercial portions or phases of developments in the Community Mixed Use (CMU) zone.

2. Guidelines and Standards

- a. Commercial mixed use developments may be permitted in the Community Mixed Use (CMU) zone, subject to the applicable provisions of Sections 17.07.050 and 17.07.060 (Land Use), and the commercial designs standards in Section 17.11.030.
- b. Commercial uses shall be located to maximize pedestrian access by the greatest number of surrounding residents.

- c. Commercial centers shall be located adjacent to arterial or major collector streets. Secondary access should be provided to adjacent neighborhoods with traffic calming measures used to discourage neighborhood cut-through traffic.
- d. Commercial uses shall be located adjacent to existing or planned residential areas containing a variety of housing types at densities of five (5) or more units per gross acre, and not adjacent to low density residential subdivisions. This guideline is intended to promote land use compatibility and transportation efficiency.
- e. Commercial mixed use developments shall conform to the overall size restrictions and spacing criteria one-half (1/2) mile from another commercial center, in a CMU zone. For the purposes of this subsection, one-half (1/2) mile is measured as the distance from the geographic center of the parcel(s) on which commercial uses exist or are proposed, as applicable.
- f. Street and block patterns, and pedestrian and bicycle connections, shall extend through neighborhood “commercial centers,” as defined under Section 17.07.070.J, so that the center maintains a coherent, continuous, visually related and functionally linked pattern for commercial centers contained in Section 17.07.070.

Commercial mixed use framework

Chapter 17.13
ZONING REVIEW AND AMENDMENT PROCEDURES

Sections:

17.13.010	General Requirements
17.13.020	Planning Clearances
17.13.030	Site Design Review
17.13.040	Conditional Uses
17.13.050	Variances
17.13.060	Amendment to Official Zoning Map (Rezone)
17.13.070	Amendment to the Land Use Code
17.13.080	Vacation of Public Right-of-Way
17.13.090	Vacation of Public Easement

17.13.010 GENERAL REQUIREMENTS.

- A. Concurrent Review of Applications. Where a project involves more than one application under this Title, the Community Development Director may require that all relevant applications for the project to be submitted together for concurrent processing and review; except that variance applications shall be reviewed separately by the Board of Adjustment.

- B. Review of Multiple Applications when Subject to Different Review Procedures. Where a project involves multiple applications with different review procedures (e.g., public hearing review of a “major” application or administrative review of a “minor” application as specified herein), the Community Development Director may process the subject applications individually under the respective review procedures, or where the Community Development Director deems it in the public interest, he or she may refer all applications for the project to the applicable hearing body for concurrent review.

- C. Criteria for Approval. Reviews of all applications under the Land Use Code shall be based on the applicable provisions of the Code and other applicable regulations. The burden shall be on the applicant to demonstrate conformity with the applicable regulations. Upon city approval, the applicant shall address all of the conditions imposed by the city decision-making body. Planning Clearances and the issuance of Certificates of Occupancy shall be contingent upon completing the project in accordance with the city’s approval and conditions thereof.

- D. Appeals. Any person aggrieved by a decision of the Community Development Department Director, under the provisions of this Title may appeal such decision as per Section 17.05.060 of this Title.

17.13.020 PLANNING CLEARANCES.

- A. Applicability. A Planning Clearance is required for any development requiring a building permit and any of the following, whether a building permit is required or not: changes in land use or development, including but not limited to new or replacement structures; significant exterior remodels of existing structures; changes to vehicle access or circulation; landscaping (except single-family residential land uses); parking, or lighting of the same; changes in building use; changes in occupancy type, as defined in applicable building codes; temporary uses; fences; sheds and any other accessory building or structure covering more than eighty (80) square feet of land area; canopies exceeding eight (8) feet in height and other accessory structures covering over eighty (80) square feet of land area, whether permanent or temporary; fireplaces and wood burning stoves (including replacement of the same); grading, excavation, or fill of more than fifty (50) cubic yards of material; and similar changes as determined by the Community Development Director.
- B. Procedure. The Community Development Director can administratively approve Planning Clearances.
- C. Approval Criteria. Planning Clearances shall be approved only if the application meets or can meet all applicable requirements of this Title and other Titles of the Municipal Code.
- D. Expiration. Planning Clearances expire automatically if:
 - 1. Within one (1) year after the issuance of such permit, the use or development authorized by such permit has not commenced, or
 - 2. Within one (1) year after the issuance of such permit, less than ten (10) percent of the total cost of all construction, alteration, excavation, demolition or similar work on any development authorized by such permit has been completed on the site. With respect to phased development this provision shall apply only to the phase under construction, or
 - 3. After some physical alteration to land or structures begins to take place, such work is discontinued for a period of three (3) years.

17.13.030 SITE DESIGN REVIEW.

- A. Applicability. Site Design Review is required for all developments and exterior remodels that result in an increase in floor area, height, lot coverage, or parking. However, Site Design Review is not required for subdivisions, single family or duplex residential dwellings.

- B. Procedure. Two types of Site Design Review are authorized, Minor Review and Major Review, as follows:
1. Administrative Site Design Review. Developments subject to Site Design Review that do not require an Adjustment to any regulation under this Title by more than ten (10) percent (dimensional standards only) are reviewed and acted upon by the Community Development Director.
 2. Site Design Review With Adjustment. Developments subject to Site Design Review that require an adjustment to one or more regulations under this Title by more than ten (10) percent are reviewed through the public hearing process in accordance with Section 17.05.070.
- C. Approval Criteria. The city decision-making body may approve a Site Design Review application only upon finding that it meets the applicable requirements of this Title and other applicable regulations.

17.13.040 CONDITIONAL USES.

- A. Applicability. A Conditional Use Permit is required for any use identified as a conditional use on the Land Use/Zoning Table in Section 17.07.060.F of this Title.
- B. Procedure. Conditional Use Permit applications shall be processed and reviewed through the public hearing process in accordance with Section 17.05.070.
- C. Approval Criteria for Conditional Use Permits. A Conditional Use Permit may be granted for a conditional use in a particular zone provided the City Council finds as follows:
1. The proposed use is consistent with the provisions and purposes of this Title, with the purposes of the zone in which it is located, and with the city's Master Plan;
 2. The proposed use is compatible with existing and allowed uses surrounding or affected by the proposed use, pursuant to the criteria in Section 17.07.080;
 3. The proposed use will not materially endanger the public health or safety; and
 4. Public services and facilities including, but not limited to, transportation systems, wastewater disposal and treatment, domestic water, fire protection, police protection, and storm drainage facilities are adequate to serve the proposed use.

- D. Expiration. A use requiring a Conditional Use Permit must commence within three years of approval or the Conditional Use Permit approval will expire. Conditional uses that have ceased for more than one year cannot be re-established without re-approval of the Conditional Use Permit.

17.13.050 VARIANCES.

- A. Applicability. A variance is an exception from the numerical requirements of this Title excluding the numerical standards contained in Chapter 11. Use variances are not permitted.
- B. Procedure. Variances are reviewed and acted upon at a public hearing before the Board of Adjustment.
- C. Approval Criteria. The Board of Adjustment may approve a variance request upon finding that the variance application meets or can meet the following approval criteria:
1. That the variance granted is without substantial detriment to the public good and does not impair the intent and purposes of this Title and the Master Plan, including the specific regulation in question;
 2. By reason of exceptional narrowness, shallowness, depth, or shape of a legal lot of record at the time of enactment of this Title, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of such property, the strict application of the subject regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property;
 3. A variance from such strict application is reasonable and necessary so as to relieve such difficulties or hardships, and the variance will not injure the land value or use of, or prevent the access of light and air to, the adjacent properties or to the area in general or will not be detrimental to the health, safety and welfare of the public;
 4. That the circumstances found to constitute a hardship are not due to the result or general conditions throughout the zone, was not induced by any action of the applicant, and cannot be practically corrected, and;
 5. That the variance granted is the minimum necessary to alleviate the exceptional difficulty or hardship.
- D. Final Decision. Any decision of the Board of Adjustment shall be final, from which an appeal may be taken to a court of competent jurisdiction, as provided in accordance with Section 31-23-307, C.R.S.

- E. Reconsideration of Denial of Variance. Whenever the Board of Adjustment denies an application for a variance, such action may not be reconsidered by the Board for one (1) year unless the applicant clearly demonstrates that circumstances affecting the subject property have substantially changed, or new information is available that could not with reasonable diligence have been presented at the previous hearing.

17.13.060 AMENDMENT TO OFFICIAL ZONING MAP (REZONE).

- A. Applicability and Procedures. The City Council may amend the number, shape, or boundaries of any zone, removing any property from one zone and adding it to another zone, only after recommendation of the Planning Commission. An amendment to the Official Zoning Map may be initiated by the owner of any property for which a rezone is sought or upon application of City Council.
- B. Approval Criteria. The Official Zoning Map may be amended when the following findings are made:
1. That the proposed amendment is compatible with surrounding land uses, pursuant to Section 17.07.080, and is consistent with the city's goals, policies and Master Plan; and
 2. That the land to be rezoned was previously zoned in error or the existing zoning is inconsistent with the city's goals, policies and Master Plan; or
 3. That the area for which the amendment is requested has changed substantially such that the proposed zoning better meets the needs of the community; or
 4. That the amendment is incidental to a comprehensive revision of the city's Official Zoning Map which recognizes a change in conditions and is consistent with the city's goals, policies and Master Plan; or
 5. That the zoning amendment is incidental to the annexation of the subject property and the proposed zoning is consistent with the city's goals, policies, and Master Plan.
- C. Protests. In case of a protest against an amendment to the Official Zoning Map which is submitted to the City Clerk at least twenty-four (24) hours prior to the City Council's vote on a proposed amendment to the Official Zoning Map, and which is signed by the owners of fifty (50) percent or more of either the area included in the proposed rezoning or of the land extending a radius of two hundred and fifty (250) feet from the land included in the proposed rezoning, then such rezoning shall not become effective except upon a favorable vote of three fourths (3/4) of the entire

membership of the City Council, whether present or not.

- D. Additional Requirements. In addition to the procedures for public hearings under Section 17.05.070, if the zoning amendment is approved by the City Council, it shall enact an ordinance to such effect and the amendment to the Official Zoning Map shall become effective thirty (30) days after publication of said ordinance.

17.13.070 AMENDMENT TO THE LAND USE CODE.

- A. Applicability and Procedures. City Council may, after the recommendation of the Planning Commission, amend language in this Title, which amendment may be initiated by any citizen or group of citizens, firm or corporation residing or owning property within the city, or by the Planning Commission, or by the City Council.
- B. Approval Criteria. Amendment to the language in this Title may be made upon a finding that the amendment is consistent with the city's goals, policies and Master Plan.

17.13.080 VACATION OF PUBLIC RIGHT-OF-WAY.

- A. The City Council may approve the vacation of a public right-of-way, after recommendation by the Planning Commission, upon finding that the vacation will not:
1. Create any landlocked parcels;
 2. Negatively impact adjacent properties;
 3. Reduce the quality of public services to any parcel of land; and
 4. Be inconsistent with any transportation plan adopted by the city.
- B. A right-of-way vacation may be approved through the Major Subdivision platting process as long as the above criteria are met in addition to the following:
1. The right-of-way to be vacated was previously dedicated to the public;
 2. The right-of-way to be vacated is entirely within the plat being created; and
 3. Existing and proposed utilities are accommodated with sufficient easements.

17.13.090 VACATION OF PUBLIC EASEMENT. The City Council may approve the vacation of a

public easement, after recommendation from the Planning Commission, upon finding that there is no longer a public interest in retaining said easement and no utility provider objects to the easement vacation.

Chapter 17.15
SUBDIVISIONS

Sections:

- 17.15.010 Authority; Jurisdiction; Enforcement**
- 17.15.020 Scope**
- 17.15.030 Purposes**
- 17.15.040 Classification of Subdivisions and General Procedures**
- 17.15.050 Pre-Application and Pre-Submittal Conferences**
- 17.15.060 Sketch Plan Submittal, Processing and Review**
- 17.15.070 Preliminary Plan Submittal, Processing and Review**
- 17.15.080 Final Plat Submittal, Processing and Review**
- 17.15.090 Phased Subdivisions and Subdivision Filings**
- 17.15.100 Approval to Begin Site Development**
- 17.15.110 Withdrawal of Approval**
- 17.15.120 Corrections to Recorded Plats**
- 17.15.130 Time Extensions for Minor Subdivisions, Preliminary Plans or Final Plats**
- 17.15.140 Public and Other Subdivision Improvements- General Requirements**
- 17.15.150 Related Costs – Public and Other Required Subdivision Improvements**
- 17.15.160 Public Improvements to be the Property of the City**
- 17.15.170 Guarantee of Improvements**
- 17.15.180 Subdivision Improvements Required prior to Issuance of Planning Clearances**
- 17.15.190 Recapture Agreements**

17.15.010 AUTHORITY; JURISDICTION; ENFORCEMENT.

- A. These regulations have been adopted in accordance with Title 31 of the Colorado Revised Statutes, as amended, which enables the city to control the subdivision of all property within all zones within the boundaries of the municipality. It shall be unlawful for any person, partnership or corporation to subdivide land within the legal boundaries of the City of Fruita without having first complied with the provisions of these regulations.

- B. Any subdivider or agent of a subdivider who transfers or sells subdivided land before a final plat for such land has been approved by the City Council and recorded in the office of the Mesa County Clerk and Recorder shall be subject to penalties and remedies as provided by 31-23-216, C.R.S., as amended and by Section 17.01.100.

17.15.020 SCOPE. No plat of a subdivision creating a new parcel shall be approved unless it conforms to the provisions of this Title.

17.15.030 PURPOSES. The purposes of this Chapter are to:

- A. Assist orderly, efficient and integrated development of the city, consistent with the Fruita Community Plan;
- B. Promote the health, safety, and general welfare of the residents of the city;
- C. Ensure conformance of land subdivision plans with the public improvement plans of the city;
- D. Ensure coordination of intergovernmental public improvement plans and programs;
- E. Encourage well planned subdivisions by establishing adequate standards for design and improvement;
- F. Improve land survey monuments and records by establishing standards for surveys and plats;
- G. Safeguard the interests of the public, homeowners and subdividers from fire, flood and other dangers;
- H. Facilitate adequate provision of transportation, water, irrigation, wastewater collection, schools, parks and recreation, and other public services and utilities;
- I. Secure equitable handling of all subdivision plans by providing uniform procedures and standards;
- J. Preserve natural vegetation and cover and promote the natural beauty of the city;
- K. Prevent and control erosion, sedimentation and other pollution of surface and subsurface water;
- L. Prevent flood damage to persons and properties and minimize expenditure for flood relief and flood control projects;
- M. Restrict building on flood lands, shore lands, areas covered by poor soils, such as bentonite, or in areas poorly suited for building or construction;
- N. Provide adequate space for future development of schools and parks to serve the population;
- O. Lessen the congestion in streets while reducing the waste of excessive amounts of streets;
- P. Protection of the city's tax base;

- Q. Provide adequate light and air;
- R. Protect both existing urban and non-urban development and preserve the value of property;
- S. Secure economy in governmental expenditures; and
- T. Prevent the overcrowding of land and avoid the undue concentration of population.

17.15.040 CLASSIFICATION OF SUBDIVISIONS AND GENERAL PROCEDURES.

A. Minor Subdivisions.

1. The following subdivisions are classified as Minor subdivisions:

- a. Subdivisions creating five (5) or fewer additional building lots all of which are adjacent to a dedicated and accepted public street for which all public improvements are already in existence and available to serve each lot and the subdivision will be completed in one phase and no density bonus is requested.
- b. Conveyances of real property to the city for public dedication purposes, unless submitted as a part of another subdivision.
- c. Consolidation plats combining no more than three (3) lots.
- d. Correction plats. (Section 17.15.120)
- e. Lot Line or Boundary Line Adjustments provided that the following conditions are met:
 - 1) No lot or parcel shall be created, nor shall any line be adjusted, resulting in less than the minimum land area required by this Title or other applicable regulations;
 - 2) Easements affecting more than the subject properties are not changed;
 - 3) Street and right-of-way locations are not changed; and
 - 4) The previously recorded plat shall not be altered in any way, which will adversely affect the previously recorded plat or compatibility with adjacent properties, pursuant to Section 17.07.080.
- f. Subdivisions dividing existing multi-family buildings into no more than six (6) townhouse or condominium lots.

2. Minor Subdivisions shall be processed as follows:
 - a. A pre-application meeting with the Community Development Department is required pursuant to Section 17.15.050, below;
 - b. The application must be submitted in the form and quantities required by the Community Development Director. The application shall be reviewed for compliance with the requirements of this Title including, but not limited to, the standards of the applicable zone and the compatibility criteria of Section 17.07.080;
 - c. The Community Development Department shall review the application with appropriate staff and other agencies, as applicable; and
 - d. After comments from city and other reviewers are considered, the Community Development Director shall make a decision to approve, deny, or approve the application with conditions based on the applicable requirements of this Title.
 - e. Any person aggrieved by a decision of the Community Development Director, or his or her designee, under the procedures set forth above, may appeal such decision to the City Council pursuant to Section 17.05.060;
 - f. Upon expiration of the appeal period in Section 17.05.060 the Minor Subdivision approval shall become final and the owner shall have one hundred eighty (180) days from the date of the approval to comply with any required conditions of approval and record the Final Plat. Time extensions may be granted pursuant to section 17.15.130.

B. Major Subdivisions.

1. The following subdivisions are classified as Major subdivisions:
 - a. Subdivisions creating six (6) or more additional building lots, and
 - b. Subdivisions not otherwise conforming to the criteria for Minor Subdivisions under subsection 17.15.040(A), above.
2. Major Subdivisions shall be processed as follows:
 - a. Pre-application conferences are required pursuant to Section 17.15.050, below.
 - b. Sketch Plan. An application for Sketch Plan is optional and approval shall be reviewed for

compliance with this Title, other requirements of the city, and requirements of other agencies, as applicable. Applications for Sketch Plan approval shall be reviewed through the public hearing process in accordance with Section 17.05.070.

- c. Preliminary Plan. An application for Preliminary Plan approval shall be reviewed for conformity to the requirements of this Title, and other applicable regulations. Applications for Preliminary Plan approval shall be reviewed through the public hearing process in accordance with Section 17.05.070.
- d. Final Plat. An application for Final Plat approval shall be reviewed for conformity to the approved Preliminary Plan, including any conditions of approval, the requirements of this Title, and any other applicable regulations. Final Plat applications can be approved administratively with the related subdivision improvements agreement requiring approval by the City Council at a public hearing.
- e. Sketch Plan, Preliminary Plan and Final Plat applications must be submitted in the form and quantities required by the Community Development Director.

17.15.050 PRE-APPLICATION AND PRE-SUBMITTAL CONFERENCES.

Prior to any submittal of an application under Chapter 17.15, a pre-application conference shall be held with the Community Development Department staff. The purpose of the pre-application meeting is informational; staff will review the applicant's preliminary proposal and provide informal feedback on applicable city codes and requirements. The intent is to promote efficiency and two-way communication between applicants and the city early in the land development review process. Prospective applicants are encouraged to contact adjacent property owners for the purpose of soliciting their input prior to formally submitting an application.

17.15.060 SKETCH PLAN SUBMITTAL, PROCESSING AND REVIEW. If an applicant chooses to submit a Sketch Plan application for approval, the following submittal, processing and review procedures apply:

- A. Applications for Sketch Plan approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.
- B. The Community Development Department shall provide all review comments to the Planning Commission along with written recommendations regarding the Sketch Plan application.
- C. At a public hearing in accordance with Section 17.05.070, the Planning Commission shall evaluate the Sketch Plan application according to the following criteria:

1. Conformance to the City of Fruita's Master Plan, Land Use Code, Design Criteria and Construction Specifications Manual and other city policies and regulations;
 2. Compatibility with the area around the subject property in accordance with Section 17.07.080;
 3. Adequate provision of all required services and facilities (roads, bicycle and pedestrian facilities, parks, police protection, fire protection, domestic water, wastewater services, irrigation water, storm drainage facilities, etc);
 4. Preservation of natural features and adequate environmental protection; and
 5. Ability to resolve all comments and recommendations from reviewers without a significant redesign of the proposed development.
- D. The Planning Commission shall provide a recommendation to the City Council regarding the Sketch Plan application.
- E. Following the Planning Commission public hearing, the City Council shall evaluate the Sketch Plan application according to the same criteria and make a final decision for approval, approval with conditions or denial of the Sketch Plan application.
- F. The Sketch Plan application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department. The applicant may be responsible for paying for the cost of an additional public notice if public notice for the public hearing has already been sent out.
- G. Preliminary Plan applications must be submitted within 180 days of City Council approval of the Sketch Plan unless a time extension has been granted pursuant to Section 17.15.130. If more than 180 days have elapsed from the date of the City Council's approval of the Sketch Plan application, and if no extension is granted, the Sketch Plan approval shall expire.

17.15.070 PRELIMINARY PLAN SUBMITTAL, PROCESSING AND REVIEW.

- A. Applications for Preliminary Plan approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.
- B. The Community Development Department shall provide review comments to the Planning Commission along with written recommendations regarding the Preliminary Plan application.
- C. At a public hearing in accordance with Section 17.05.070, the Planning Commission shall evaluate the Preliminary Plan application according to the Sketch Plan criteria in Section 17.15.060(C) and

also the following criteria:

1. Adequate resolution of all review comments; and
 2. Compliance with conditions of approval on the Sketch Plan, if any.
- D. The Planning Commission shall provide a recommendation to the City Council regarding the Preliminary Plan application.
- E. Following the Planning Commission public hearing, the City Council shall evaluate the Preliminary Plan application according to the same criteria and make a final decision for approval, approval with conditions or denial of the Preliminary Plan application.
- F. The Preliminary Plan application may be continued or withdrawn by the applicant at any time in writing to the Community Development Department. The applicant may be responsible for paying for the cost of an additional public notice if public notice for the public hearing has already been sent out.
- G. Final Plat applications must be submitted within 180 days of City Council approval of the Preliminary Plan unless a time extension has been granted pursuant to Section 17.15.130. If more than 180 days have elapsed from the date of the City Council's approval of the Preliminary Plan application, and if no extension is granted, the Preliminary Plan approval shall expire. The Community Development Director shall determine if the project must be resubmitted at the Sketch Plan stage or the Preliminary Plan stage of the land development review process.

17.15.080 FINAL PLAT SUBMITTAL, PROCESSING AND REVIEW.

- A. Applications for Final Plat approval shall be submitted in the form and number as required by the Community Development Director. The application shall be distributed to appropriate staff and others for review and comment.
- B. The Community Development Department shall evaluate the Final Plat application for compliance with the approval of the Preliminary Plan including any conditions of approval and all requirements of this Title.
- C. The Final Plat application may be withdrawn by the applicant at any time in writing to the Community Development Department.
- D. Final Plats may be administratively approved by staff, however, if a subdivision improvements agreement (SIA) is required for the subdivision, the SIA must be approved by the City Council at a public hearing.

- E. Final Plats for Major Subdivisions must be recorded within two years of Preliminary Plan approval by the City Council unless a time extension has been granted pursuant to Section 17.15.130. For Final Plats not yet recorded on the effective date of this Title, the applicants have two years from the effective date of this Title to finalize requirements and record the Final Plat.
- F. The Final Plat and related documents must be recorded within ninety (90) days of the City Council's approval of the SIA unless a time extension has been granted pursuant to Section 17.15.130. If more than ninety (90) days have elapsed from the date of the City Council's approval of the SIA, and if no extension is granted, the approval of the Final Plat, SIA and related documents shall expire. The Community Development Director shall determine if the project must be resubmitted at the Sketch Plan stage or the Preliminary Plan stage of the development review process.
- G. In accordance with Chapter 17.47 of this Title, in the event development within the subdivision has not commenced within three (3) years of the recording date of the Final Plat, unless such period is otherwise extended by the City Council, the City Council may, following a public hearing, vacate its approval of the subdivision which shall then be deemed null and void. For purposes of this subsection, start of development shall mean either the commencement of construction of the public and other required improvements within the subdivision, or the sale of an individual lot or unit within the development, or issuance of the first building permit for construction within the subdivision, whichever event first occurs.
- H. Additional requirements for Final Plat approval.
 - 1. As part of the Final Plat submittal requirements, once staff has approved the Final Plat application, a peer reviewer shall prepare a letter to the Fruita Community Development Director and the subdivider documenting any deficiencies in the Final Plat to be corrected. After all corrections to the Final Plat are made to the satisfaction of the peer reviewer, the subdivider shall obtain from the reviewer a signed and sealed certification to the Community Development Department that the Final Plat has been reviewed, and to the best of his or her knowledge, the plat satisfies the requirements pursuant to Section 38-51-106, C.R.S., as amended, for the recording of subdivision plats in the office of the Mesa County Clerk and Recorder. The subdivider shall pay all review fees charged by the peer reviewer, which shall be billed directly to the subdivider by the peer reviewer.

This certification makes no warranties to any person for any purpose. It is prepared to establish for the City of Fruita Community Development Director and the County Clerk and Recorder that a professional peer review has been obtained. The certification does not warrant:

- a. Title or legal ownership of the land platted nor the title of legal ownership of adjoiners;
 - b. Errors and/or omissions, including but not limited to, the omission(s) of rights-of-way and/or easements, whether or not of record;
 - c. Liens and encumbrances, whether or not of record; and
 - d. The qualifications, licensing status and/or any statement(s) or representation(s) made by the surveyor who prepared the above named subdivision plat.
2. The Final Plat shall be approved by certain reviewers as determined by the city with signatures indicating all requirements or changes have been fulfilled.
 3. The Community Development Department staff shall ensure the Final Plat and related documents are recorded with the Mesa County Clerk and Recorder's office including, but not limited to, the following: the executed subdivision improvements agreement; delivery of the performance guarantee required by Section 17.15.160; powers of attorney; deeds conveying easements; land or rights-of-way not dedicated on the Final Plat; the declaration of covenants; evidence of incorporation of the homeowners association, if applicable; and, homeowner's association bylaws, if applicable.

17.15.090 PHASED SUBDIVISIONS AND SUBDIVISION FILINGS. Phased subdivisions are differentiated from subdivisions constructed in filings primarily by the scope and timing of Final Plat submittals and the scope and timing of approvals for construction. In a phased subdivision, the entire subdivision is platted after approval of the Final Plat. For a subdivision done in filings, only a portion of the subdivision is recorded after approval of that portion of the Final Plat. Subsequent Final Plat submittals are required to be approved for subsequent filings. Individual construction phases or filings and associated construction drawings and submittals are reviewed and approved administratively, with the subdivision improvements agreement specific to a phase or filing of the development approved by the City Council at a public hearing. A schedule of phasings or filings is required to be submitted with the Preliminary Plan and Final Plat applications. No such schedule may exceed five years without re-approval by the City Council after the five-year period.

17.15.100 APPROVAL TO BEGIN SITE DEVELOPMENT.

- A. No excavation, trenching, or other site development work shall begin until the following minimum requirements have been met:
 1. The subdivision improvements agreement has been recorded along with the required performance guarantee;

2. Approved for construction drawings have been signed by the City Engineer;
 3. All fees, including review fees, permit fees and impact fees have been paid;
 4. A pre-construction meeting has been held with the City Engineer and/or Public Works Director, and a signed copy of the inspection/approval form for the development has been received by the subdivider;
 5. Copies of permits issued by other governmental entities. Specifically, but not by way of limitation, a Construction Site Storm Water Discharge Permit issued by the Colorado Department of Public Health and Environment. Also a complete and accurate copy of the final Construction Storm Water Management Plan; and
 6. All other documents required by this Chapter.
- B. Exceptions - specific work tasks may be undertaken prior to compliance with subsection A above, only with the written approval of the city. Such work tasks shall be limited to the following:
1. Surveying;
 2. Installation of erosion control measures;
 3. Placement of equipment or construction trailers, including utility hook-ups with a valid Planning Clearance and Building Permit if required;
 4. Demolition, under a valid demolition permit;
 5. Tree removal, clearing and grubbing;
 6. Removal/relocation of irrigation facilities necessary to maintain irrigation service to adjoining properties;
 7. Undergrounding of overhead electric or telecommunication lines;
 8. Work within a Grand Valley Drainage District easement, with its written permission, and;
 9. Other required infrastructure, which in the opinion of the city, is desirable to expedite due to weather or environmental conditions or which require close coordination with critical city-managed infrastructure or utility projects.

17.15.110 WITHDRAWAL OF APPROVAL. The city decision-making body may withdraw its

approval of a plan or plat if and when it is determined that information provided by the subdivider, upon which such decision was based, was false or inaccurate.

17.15.120 CORRECTIONS TO RECORDED PLATS. If it is discovered that there is a minor survey or drafting error in a recorded Final Plat, the applicant shall be required to file the Final Plat with an affidavit executed by a registered land surveyor and approved by the County Surveyor. If however, the correction of the error results in major alterations, as determined by the Community Development Director, then the corrected plat shall be subject to the full approval procedures for Final Plats contained in this Chapter and the recording of the corrected plat.

17.15.130 TIME EXTENSIONS FOR MINOR SUBDIVISIONS, PRELIMINARY PLANS OR FINAL PLATS.

- A. The City Council may grant an extension of the deadline to submit Preliminary Plan or Final Plat applications, record the final plat or commence development of the subdivision. Time extensions may be granted by the Community Development Director for Minor Subdivisions. A public hearing before the City Council is required on any request for a time extension for a Major Subdivision. Time extension requests are evaluated on the following criteria:
1. There have been no changes to the area in which the subdivision is located that would effect the proposed subdivision,
 2. There have been no changes to the city's rules, regulations and policies including changes to the city's Master Plan and this Land Use Code, and
 3. There has been no significant increase in impact fees required to be paid for the proposed subdivision.
- B. In the event an approved Final Plat is not recorded by the deadline set out herein, and no extension has been granted, the approval shall be revoked pursuant to Section 17.01.100 of this Title. In accordance with Chapter 47 of this Title, in the event development within the subdivision has not commenced within three (3) years of the recording date of the final plat, the City Council may, following a public hearing, vacate its approval of the subdivision within shall then be deemed null and void. For purposed of this section, "commence development" shall mean either the commencement of construction of the public and other required improvements within the subdivision, or the sale of an individual lot or unit within the development, or issuance of the first building permit for construction with the subdivision, whichever first occurs.

17.15.140 PUBLIC AND OTHER SUBDIVISION IMPROVEMENTS - GENERAL REQUIREMENTS. The following public and other necessary subdivision improvements shall be constructed at the sole expense of the subdivider as set forth in the subdivision or development approval

which are in accordance with the City of Fruita Design Criteria and Construction Specifications Manual, this Title, and sound construction and local practices. Standards and specifications published by the Colorado Department of Transportation shall apply to all State Highways. Where specific requirements are set out in other sections of this Title, the most restrictive shall apply:

- A. Street grading and surfacing and all related improvements of all internal streets within the subdivision.
- B. Adjacent streets and related improvements. All adjacent streets and related improvements providing primary or secondary access to the proposed subdivision shall be capable of adequately handling the vehicular traffic generated by the subdivision, at full occupancy, as determined by the city based on generally accepted traffic engineering standards and any applicable city standards. In applying this standard, the minimum acceptable level of service for all streets within the City of Fruita is Level of Service "C", as defined by the Institute of Transportation Engineers (ITE) Trip Generation Manual, latest edition. (See also the Transportation Impact Fee Study prepared by Mesa County, Colorado by Duncan Associates, September, 2002.) Consistent with Chapter 17.19, the city may require a site specific traffic impact study performed by a registered professional engineer, at the sole cost of the subdivider, when the proposed subdivision is expected to generate at least five hundred (500) daily trip ends or fifty (50) peak hour trip ends in order to determine the traffic impacts generated by the proposed subdivision and the related street improvements needed to accommodate such additional traffic.

In the event the City Council determines that improvements to adjacent streets are necessary as a result of the traffic impacts generated by the proposed subdivision, construction of such off-site improvements shall be the responsibility of the developer. The City Council may, as a condition of approval of the subdivision: (1) require the subdivider to construct all such improvements including the full width of any expanded roadway surface; (2) require the subdivider to pay to the city the cost of constructing such improvements in which case the city shall be responsible for constructing the applicable improvements; (3) may require the subdivider to participate in a street improvement district which shall be responsible for constructing such improvements; (4) require payment of a transportation impact fee consistent with Section 17.19.130 of this Title; or (5) any combination of the above.

Provided, however, in the event the City Council determines that adjacent streets providing access to the proposed subdivision are presently inadequate to handle existing levels of traffic without the proposed subdivision, the city, or a street improvement district created by the city, shall be responsible for the costs of the improvements necessary to adequately service the subject property without the proposed subdivision. The subdivider shall be responsible for all remaining costs necessitated by development of the subdivision. In the event the City Council determines that the improvements to be constructed and/or paid for by the subdivider will also benefit other properties in the area if further developed or subdivided, and if requested by the subdivider and approved by

City Council, the city shall enter into recapture agreements pursuant to Section 17.15.180 with the subdivider requiring the owner or developer of such other properties, as a condition of subdivision or development, to reimburse the subdivider for a portion of the costs incurred by the subdivider for the street improvements constructed pursuant to this subsection. Such contribution or recapture amount shall be calculated by the city and shall be roughly proportional to the traffic impacts generated by such other developments or subdivisions.

- C. Curbs, gutters and sidewalks, bicycle and pedestrian paths and trails.
- D. Wastewater laterals, and mains.
- E. Storm drainage system, as required.
- F. Water distribution system.
- G. Fire hydrants.
- H. Required street signs and other traffic control devices.
- I. Permanent reference monuments and monument boxes.
- J. Street lights.
- K. Irrigation System. If the proposed subdivision is located in an area that can be reasonably serviced by an existing irrigation ditch or canal system, the subdivider shall install a fully functional, non-potable irrigation system capable of servicing the subdivision and shall convey adequate irrigation water rights to the homeowners association.
- L. Natural gas lines and related facilities necessary to service the subdivision.
- M. Cable television lines and related facilities necessary to service the subdivision.
- N. Telephone and other telecommunication lines and related facilities necessary to service the subdivision.
- O. Electrical distribution lines and related facilities. All newly constructed electrical distribution lines shall be placed underground to serve new residential subdivision areas. Exceptions to the undergrounding requirements for Minor Subdivisions may be allowed pursuant to the following conditions:
 - 1. Upon the request of the developer of a Minor Subdivision, the Community Development

Director may permit said lines be constructed overhead provided that the Minor Subdivision is in compliance with all other provisions of this Title and the following conditions are met:

- a. The electrical distribution lines proposed to be placed overhead shall not exceed a maximum distance of one (1) block or seven hundred fifty (750) feet, whichever is less;
 - b. It will not result in any endangerment of the public health or safety;
 - c. It will not substantially injure the value of adjoining or abutting property;
 - d. It will be in harmony with the area in which it is located; and
 - e. It will be in general conformity with applicable city policies and regulations.
- P. Erosion control and storm water management facilities, both temporary and permanent, including obtaining state required permits.
- Q. Relocation and/or replacement of existing facilities of the types listed above, as required for the installation of other specified improvements.
- R. Public or private park, trail, public site, open space and recreation facilities.
- S. Other facilities as may be specified in this Title or required by the City Council.

17.15.150 RELATED COSTS - PUBLIC AND OTHER REQUIRED SUBDIVISION IMPROVEMENTS. A subdivider shall provide, at its sole cost, all necessary engineering designs, surveys, field surveys, as-built drawings and incidental services, including the cost of updating city mapping related to the construction of the public and other required subdivision improvements.

17.15.160 PUBLIC IMPROVEMENTS TO BE THE PROPERTY OF THE CITY. Upon completion of construction of the public improvements in conformity with city standards and the plans, and any properly approved changes, a subdivider shall convey to the city, by bill of sale, all physical facilities necessary for the extension, maintenance and repair of municipal services. Acceptance of said conveyance shall be made by the city only by a majority vote of the City Council. Approval of a subdivision shall not constitute acceptance by the city for maintenance of wastewater system facilities, parks, streets, alleyways or other public improvements required under a subdivision improvements agreement. The acceptance of such facilities for maintenance shall be by specific action of the City Council upon completion in accordance with the subdivision improvements agreement and/or adopted standards.

17.15.170 GUARANTEE OF IMPROVEMENTS. In order to secure the construction and installation of the public and other required subdivision improvements, the subdivider shall choose one of the following

options prior to the recording of the subdivision Final Plat:

- A. Subdivision Improvements Agreement. Furnish the city with a performance guarantee satisfactory to the city, as set forth in a subdivision improvements agreement along with other required documents before recording the final plat. (See also, Chapter 17.21.)

- B. Final Plat Hold. Complete all required improvements according to the subdivision approval and approved for construction drawings the same as would be required for a recorded Final Plat with a subdivision improvements agreement, pursuant to Chapter 21 of this Title. A subdivision improvements agreement is required for any improvement involving existing public right-of-way or other existing public property. Before the Final Plat is recorded, an up-to-date title search is required to ensure that there are no additional liens on the property. Failure to provide clear title to land/improvements may result in vacation of the approved Final Plat. All required improvements must be inspected by staff, and accepted by the City Council before the Final Plat is recorded. Additionally, a warranty is required for the improvements before the Final Plat is recorded. The warranty shall be the same as that required in subdivision improvements agreements in Chapter 21 of this Title.

17.15.180 SUBDIVISION IMPROVEMENTS REQUIRED PRIOR TO ISSUANCE OF PLANNING CLEARANCES. All required improvements shall be installed, inspected and approved by city staff prior to issuance of a planning clearance for a building permit for the construction of any buildings within a subdivision with the exception of trails, bikeways and landscaping of common open spaces, parks and recreation areas whether dedicated to the city or to a homeowners association. Up to twenty percent (20%) of the Planning Clearances in a subdivision may be released when all improvements are completed excluding trails, bikeways, fencing and landscaping of common open spaces, parks and recreation areas. Once all improvements are completed, approved and accepted by the city, all other Planning Clearances can be released. Once a Planning Clearance is released, a Certificates of Occupancy for the building can be issued if all other requirements have been met.

The city may approve an exception to this provision for a model house to be constructed, provided that the house shall not be occupied as a residence until Planning Clearances have been released for the subdivision and a Certificate of Occupancy has been issued.

Improvements required to be completed before release of a Planning Clearance may include but are not limited to the following:

1. Permanent survey monuments referenced to the North American Vertical Datum of 1988 (NAVD)88 per the Mesa County Survey Monument (MCSM) standards;

2. Wastewater lines and laterals to each lot;

3. Water mains and laterals to each lot;
4. Fire hydrants;
5. Storm drainage structures and conveyances, including associated erosion control measures as needed to prevent siltation of new or existing storm drainage facilities;
6. Grading and base construction of streets and alleys;
7. Soil stabilizing structures;
8. Dry utilities, including telecommunications, cable television, electrical service, and natural gas service shall be installed and operational;
9. Concrete curb, gutter, sidewalks, cross pans and handicap ramps;
10. Asphalt and/or concrete street paving as required;
11. Street signage, pavement markings and required traffic control devices;
12. Overlot grading of all areas to facilitate proper drainage, including grading completed on all lots to match finished grade elevations at all property corners;
13. Street lighting;
14. Trails and bikeways;
15. Permanent soil stabilization and revegetation measures;
16. Landscaping of common open spaces, parks and recreation areas whether dedicated to the City or to a homeowners association;
17. Developer installed fencing as shown on the construction drawings pursuant to the applicable subdivision improvements agreement;
18. Non-potable irrigation system;
19. All other required public or private improvements pursuant to the applicable subdivision improvements agreement and this Title;

20. As built drawings accepted by the City Engineer; and
21. Any other documentation required by the City.

17.15.190 RECAPTURE AGREEMENTS. As one of the conditions of approval of a subdivision, the city may determine that certain off-site improvements that are of general benefit to the city are required. In this event, the city, by affirmative action of the City Council, may enter into a recapture agreement with a subdivider under which proportionate engineering, surveying and construction costs of off-site water, wastewater, storm drainage and/or street improvements are repaid to the subdivider by other owners or developers who benefit from such improvements over an established period of time. The proportionate share of the cost of the improvements to be repaid by others shall be calculated in accordance with formulas approved by the city. It is the subdivider's sole responsibility to request a recapture agreement, and said request shall be made prior to final City Council action on the development application. The City Council retains sole authority to approve or deny all recapture agreements, at its discretion. Recapture agreements shall not exceed a period of ten (10) years.

Chapter 17.17
PLANNED UNIT DEVELOPMENTS

Sections:

- 17.17.010 General Purposes**
- 17.17.020 Planned Unit Developments – General Procedures**
- 17.17.030 Criteria For Review and Decisions**
- 17.17.040 Planned Unit Development Applications; Submittal, Processing and Review**
- 17.17.050 Planned Unit Development Improvements**
- 17.17.060 Amendments to Final Planned Unit Development Plan or Planned Unit Development Guide**

17.17.010 GENERAL PURPOSES. Planned Unit Developments allow for modification of the normal use, density, size or other zoning restrictions for the development to accomplish the following purposes:

- A. More convenient location of residences, places of employment, and services in order to minimize the strain on transportation systems, to ease burdens of traffic on streets and highways, and to promote more efficient placement and utilization of utilities and public services;
- B. To promote greater variety and innovation in residential design, resulting in adequate housing opportunities for individuals of varying income levels and greater variety and innovation in commercial and industrial design;
- C. To relate development of particular sites to the physiographic features of that site in order to encourage the preservation of its natural wildlife, vegetation, drainage, and scenic characteristics;
- D. To conserve and make available open space;
- E. To provide greater flexibility for the achievement of these purposes than would otherwise be available under conventional zoning restrictions;
- F. To encourage a more efficient use of land and of public services, or private services in lieu thereof, and to reflect changes in the technology of land development so that resulting economies may inure to the benefit of those who need homes;
- G. To conserve the value of land and to provide a procedure which relates the type, design, and layout of residential, commercial and industrial development to the particular site proposed to be developed, thereby encouraging the preservation of the site's natural characteristics, and;

H. To encourage integrated planning in order to achieve the above purposes.

17.17.020 PLANNED UNIT DEVELOPMENTS – GENERAL PROCEDURES.

- A. Subdivisions. In the event a proposed Planned Unit Development involves a subdivision, the Sketch Plan application for the subdivision shall be reviewed as the Concept Plan for the Planned Unit Development application. Concept Plans like Sketch Plans are optional. The Preliminary Plan application shall be reviewed as the Preliminary Planned Unit Development Plan. Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for subdivisions, pursuant to Chapter 17.15.
- B. Site Design Review. In the event a proposed Planned Unit Development does not require a subdivision, Planned Unit Development will follow the Site Design Review application procedures of Chapter 17.13, except the Site Design Review for the Planned Unit Development shall be reviewed through the public hearing process in accordance with Section 17.05.070. Approval criteria for Planned Unit Developments must be considered in addition to the approval criteria required to be considered for Site Design Review, pursuant to Chapter 17.13.

17.17.030 CRITERIA FOR REVIEW AND DECISIONS. Recommendations of the Planning Commission to the City Council and decisions by the City Council concerning a proposed Planned Unit Development shall be based upon the following criteria. In no case shall the approval of a Planned Unit Development vary the health and safety requirements contained in Title 8, requirements concerning public peace, morals and welfare contained in Title 9, requirements concerning public improvements contained in Title 12, requirements concerning water and wastewater service contained in Title 13, or the requirements of the city's building codes as set forth in Title 15 of the Municipal Code.

The following approval criteria shall be considered by the Planning Commission and City Council in its review of a proposed Planned Unit Development and no Planned Unit Development shall be approved unless the Council is satisfied that each of these approval criteria has been met, can be met or does not apply to the proposed Planned Unit Development:

1. Conformance to the Fruita Master Plan;
2. Consistency with the purposes as set out in Section 17.17.010, above;
3. Conformance to the approval criteria for Subdivisions (Chapter 17.15) and/or Site Design Review (Chapter 17.13), as applicable; except where Adjustments to the standards of this Title are allowed, and;

4. Where the applicant proposes one or more Adjustments to the standards of this Title, consistency with the Adjustment criteria set forth in Section 17.11.020(B), is required.

17.17.040 PLANNED UNIT DEVELOPMENT APPLICATIONS - SUBMITTAL, PROCESSING AND REVIEW.

- A. Planned Unit Development Concept Plan. Upon completing a pre-application conference, a Concept Plan application may be submitted to the Community Development Department.
- B. Preliminary Planned Unit Development Plan. An application for a Preliminary Planned Unit Development Plan shall be submitted within one hundred eighty (180) days of the approval of the Planned Unit Development Concept Plan by the City Council. Failure to file a complete Preliminary Planned Unit Development Plan application in a timely manner will result in reconsideration of the Planned Unit Development Concept Plan approval by the Council.
- C. Final Planned Unit Development Plan. An application for Final Planned Unit Development Plan/Plat application shall conform to the previously approved Preliminary Planned Unit Development Plan, all conditions of approval, and the requirements of Section 17.17.030, and shall be submitted to the Community Development Department within one hundred eighty (180) days following approval or conditional approval of the Preliminary Planned Unit Development Plan by the City Council, unless such time is extended by the City Council.
- D. Final Approval and Recording of Planned Unit Development. Upon approval of the Final Planned Unit Development Plan/Plat the City Council shall enact an ordinance zoning the subject property as a Planned Unit Development. The Final Planned Unit Development Plan/Plat shall then be recorded by the Community Development Department in the manner and by the deadline provided for approved subdivision Final Plats and related documents in Section 17.15.080. No Final Planned Unit Development Plan, development or subdivision improvements agreement shall be recorded until the developer has paid to the city all review, filing and recording fees, as well as any applicable impact fees. The applicant shall sign the Planned Unit Development Guide before it is recorded.

17.17.050 PLANNED UNIT DEVELOPMENT IMPROVEMENTS.

All required improvements for an approved Planned Unit Development shall be designed, constructed and installed in accordance with the requirements for subdivision improvements set forth in Chapter 17.15 and in accordance with a development or subdivision improvements agreement entered into by the City Council and the developer pursuant to Chapter 17.21 for Planned Unit Development involving a subdivision or in accordance with requirements for Site Design Review approval if no subdivision is required. Improvements shall be constructed pursuant to the city approved Planned Unit Development construction plans and Planned Unit Development Guide.

17.17.060 AMENDMENTS TO PLANNED UNIT DEVELOPMENT FINAL DEVELOPMENT PLAN OR PLANNED UNIT DEVELOPMENT GUIDE.

- A. Conditions for Amendment. An approved Final Planned Unit Development Plan or Planned Unit Development Guide may be amended, if the applicant demonstrates that the proposed modification:
1. Is consistent with the efficient development and preservation of the entire Planned Unit Development;
 2. Does not affect, in a substantially adverse manner, either the enjoyment of the land abutting within or adjoining the Planned Unit Development, or the public interest;
 3. Is not granted solely to confer a special benefit upon any person;
 4. Does not contain proposed uses that adversely affect other uses approved for the Planned Unit Development;
 5. Does not contain a public site, park or open space plan that differs substantially in quantity or quality from that originally approved;
 6. Contains street and utility plans that are coordinated with planned and/or existing streets and utilities for the remainder of the Planned Unit Development; and
 7. Is consistent with all applicable regulations of this Title, except as specifically allowed through the subject Planned Unit Development approval or where an amendment is allowed pursuant to this Section.
- B. Classification of Amendments. For the purposes of considering a proposed amendment to a Final Planned Unit Development Plan or Planned Unit Development Guide, amendments shall be classified as minor amendments or major amendments. A minor amendment shall include minor changes in location, siting, and bulk of structures, or height or character of structures required by engineering or other circumstances not foreseen at the time the Planned Unit Development or Planned Unit Development Guide was approved. A minor amendment shall not alter the dimensions of any building or structure by more than ten (10) percent. A major amendment shall include all other modifications; such as; changes in use, arrangement of lots or structures, and all changes in the provisions concerning public sites, parks, open space or density.
- C. Pre-application Conference. When proposing any amendment to a Final Planned Unit Development Plan and/or Plat, the applicant shall first request a pre-application conference with the

Community Development Department to discuss city procedures, and requirements. The applicant shall provide information that is sufficient for the Community Development Director to determine whether the request meets the criteria for a minor or major amendment.

- D. Review of Planned Unit Development Amendments. Minor Planned Unit Development amendments shall be reviewed and may be approved by the Community Development Director. Major Planned Unit Development amendments shall be reviewed and may be approved in the manner set forth for original Planned Unit Development applications as contained in this Chapter.

Chapter 17.19
PUBLIC DEDICATIONS AND IMPACT FEES

Sections:

17.19.010	Purpose
17.19.020	Authority to Impose Dedication or Impact Fee Requirements
17.19.030	Criteria for Requiring Dedications or Payment of Impact Fees
17.19.040	Alternative Methods for Determining the Extent of Dedication or Impact Fee Requirements
17.19.050	Basis of Determination
17.19.060	Fee Funds Established; Use of Impact Fees
17.19.070	Credits; Offsets; and Reimbursements
17.19.080	Refund of Impact Fees Paid
17.19.090	Public Sites, Parks and Open Spaces Dedication/Fee
17.19.100	School Land Dedication
17.19.110	Fee in Lieu of School Land Dedication
17.19.120	School Land Dedication Fee Trust Fund
17.19.130	Transportation Impact Fee
17.19.140	Chip and Seal Impact Fee
17.19.150	Drainage Impact Fee

17.19.010 PURPOSE. The City Council declares it is the policy of the city that dedications of real property and/or exactions in the form of monetary payments shall be required in those instances where the City Council determines that a proposed project, development or improvement: (1) will create the need for new facilities or services, or (2) will result in increased use of existing services or facilities in such a manner as to require the expansion or eventual replacement thereof. In those instances, this Chapter shall be applied to provide a method whereby such dedication or impact fee shall be quantified to assure that a fair and equitable proportionality is established between the cost of the improvements or facilities which are attributable to the proposed development or improvement (and which are therefore the responsibility of the owner/developer), and the overall public cost of the provision of such improvements or facilities. In interpreting and implementing the provisions of this Chapter, the City Council shall give due weight to the needs of the general public, and especially the development or improvement proposed, so as not to burden disproportionately the general public and existing residents with costs or expenses to provide services or facilities, the need for which are generated by the proposed development or improvement.

17.19.020 AUTHORITY TO IMPOSE DEDICATION OR IMPACT FEE REQUIREMENTS.

- A. Pursuant to the provisions of applicable law, authority is specifically given to the City Council, as a part of its legislative function, to establish general schedules or formulas for monetary impact fees for those classes of development that are subject to real property dedications, public improvement requirements, and/or impact fees.

B. Strictly by means of illustration, and not by means of limitation, dedications or impact fees are expressly authorized under the following circumstances:

1. Streets, Sidewalks, Bicycle and Pedestrian Paths. Fee title may be required to be dedicated to the city for the construction, reconstruction, reconfiguration, widening or extension of on-site and off-site streets or for acceleration/deceleration lanes. Fee title may also be required to be dedicated to the city for the construction, reconstruction or reconfiguration of on-site and off-site sidewalks or bicycle and pedestrian paths for use by the general public. Payment for the construction of such sidewalks or bicycle and pedestrian paths also may be required. Dedication to the City of Fruita of fee title for all internal public rights-of-way shall be required and actual construction by the owner/developer shall be required for all internal streets, necessary off-site streets, sidewalks, and bicycle and pedestrian paths. A combination of both construction and payment of impact fees as provided in this Chapter may also be required. Dedication to the City of Fruita of fee title for all internal public rights-of-way shall be required and actual construction by the owner/developer shall be required for all internal streets, sidewalks, and bicycle and pedestrian paths within an approved subdivision or development shall be required. Fees for initial life extending surfaces for all streets internal to a subdivision shall also be required as provided in this Chapter.
2. Parks and Public Sites. Fee title to property sufficient to enable the development of a park, trail or public site within a subdivision or PUD and actual development of such park, trail or public site may be required based upon compliance with the city's park and public site development standards, or payment of a fee in lieu of such dedication shall be required, provided that adequate standards exist for insuring that the monetary impact fee paid by the owner or developer is utilized on a project which will directly or indirectly benefit the owner or developer's property.
3. Utilities. Fee title or easements to the city for use by the general public, or by utility companies shall be required for utility pipelines, conduits, wires and other facilities or appurtenances. For the purposes of this Chapter, utilities include, but are not limited to: domestic water, irrigation, wastewater, storm sewer, electric, natural gas, cable television, and telecommunications services.
4. Open Space. Fee title to property, which meets the adopted standards for open space dedication to the city or to a private homeowners association, may be required or payment of a fee in lieu thereof shall be required.
5. School Lands. Based upon standards adopted by the City of Fruita in conjunction with the local school district, fee title to school lands may be required to be dedicated by the owner/developer, or a fee in lieu thereof shall be required.

6. Storm Water and Drainage Management. Fee title to property sufficient to enable the development of regional storm water and drainage improvements, and actual construction thereof, may be required based upon an assessment of the development's impact on the city's storm water quality compliance programs, and/or the need for upstream or downstream flood control measures. A fee in lieu of dedication and/or construction may be required when payment of a fee will not create or exacerbate a flooding or water quality compliance problem, and such fee in lieu of dedication and/or construction is based on a rational determination of the impacts generated by a development.
 7. Downtown Parking District In Lieu Fee. [Reserved]
- C. The City Council, in its discretion, shall accept or reject any proposed dedication of land to the city prior to final approval of a proposed subdivision or development.
 - D. Approval of a subdivision or other development shall not constitute acceptance by the city for maintenance of streets, alleyways, parks or public sites shown as dedicated on a plat. The acceptance for maintenance shall be by specific action of the City Council upon completion in accordance with parks, subdivision or development improvement agreements and/or adopted standards.
 - E. Street, traffic control and signing shall be installed in accordance with city standards at the expense of the developer.
 - F. Signage and pavement markings within dedicated lands, including streets, shall be in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) standards at the expense of the developer.
 - G. Notwithstanding any provision contained in this Chapter to the contrary, any vacant platted building lot within the city created by subdivision prior to January 1, 1980, shall be subject to the impact fees set forth in this Chapter. Fees for such lots shall be due and payable at the time of issuance of Planning Clearances for building permits for the construction of habitable structures on such lots. Impact fees assessed for subdivisions or other developments approved after the effective date of this Chapter shall be due and payable at the time of approval of the subdivision Final Plat, Final Planned Unit Development Plan, or issuance of a Planning Clearance for a building permit, whichever shall first occur, however; Minor Subdivisions for only residential land uses can defer payment of impact fees to the time of Planning Clearance approval for construction on individual lots. Minor subdivisions that defer the impact fees to the time of Planning Clearance are required to pay the fee in effect at the time of Planning Clearance approval.

17.19.030 CRITERIA FOR REQUIRING DEDICATIONS OR PAYMENT OF IMPACT FEES.

Dedications or payment of an impact fee is required of an owner/developer based on the following:

- A. That a legitimate, identifiable public purpose is served by the required dedication or payment of a fee;
- B. That the City of Fruita is acting within its power to provide the facilities or services for which the fee or dedication is required, either directly or through such dedication/impact fee process, for the benefit of the residents of the community;
- C. That, but for the proposed development or improvement or the proposed development or improvement in conjunction with other developments, actual or proposed, the city would not currently be considering providing or expanding either the services or facilities in question (i.e. existing facilities and services are adequate to service the existing population);
- D. That the proposed development or improvement, and the projected use of facilities and services generated by such development or improvement, is a contributing cause to the need for new or expended facilities or services;
- E. That the City of Fruita would be legally justified in declining to approve the proposed development or improvement unless the dedication or impact fee was imposed because of the negative effect of the proposed development or improvement, on either existing private property or the city's or another local government's facilities or services;
- F. That the City of Fruita, acting within its lawful authority, requires all owners or developers similarly situated to provide similar, in both quantity and quality, or roughly similar dedications, or to pay the same or roughly the same fees;
- G. That the dedication or impact fee will serve the proposed development or improvement directly, provided, however, the fact that certain services or facilities of a general nature which provide a general benefit to all residents of the community including residents of the proposed development shall not constitute a valid ground for failing to impose a dedication or fee requirement; and
- H. That the dedication or impact fee is required to and does address needs for capital facilities brought about by the proposed development or improvement which needs are not addressed by any other requirement of this Title.

17.19.040 ALTERNATIVE METHODS FOR DETERMINING THE EXTENT OF DEDICATION OR IMPACT FEE REQUIREMENTS. Upon a determination by the City Council pursuant to the provisions of this Chapter that payment of an impact fee or a dedication of land may lawfully be required, the extent of such fee or dedication shall be determined using whichever of the following methods is selected by the owner/developer.

- A. The city has adopted local or nationally recognized general standards or formulas relating to dedications and impact fees, as contained in this Chapter, and is authorized to adjust or modify

these general standards and formulas from time to time by action of the City Council. Such standards or formulas shall be applicable to all owners/developers unless the owner/developer requests the city to implement the provisions of subsections (C) or (D) of this Section. If an owner/developer voluntarily accepts the general standards or formulas of the city by proceeding to a hearing before the Planning Commission and/or City Council, the owner/developer shall be deemed to have waived any rights under subsections (C) or (D) and shall be conclusively presumed to have accepted the general standards or formulas contained in this Chapter.

- B. In the event no general standard or formula has been adopted relating to a certain type of dedication or impact fee, the owner/developer may voluntarily agree to comply with the dedication or fee recommended by the city staff, or request a review and determination by City Council in a public hearing. Unless the owner/developer affirmatively requests the city to implement the provisions of subsections (C) or (D) of this Section, at the pre-application conference prior to submittal of a subdivision Sketch Plan application, PUD Concept Plan application, or similar application, he shall be deemed to have waived any rights under subsections (C) or (D) and shall be conclusively presumed to have accepted the dedication or fee requirement recommended by city staff.

- C. An owner/developer may request that an individualized study or report be made by the city relating solely to its proposed development or improvement in order to determine whether or not dedications or improvements shall be required, and, if so, to determine the extent thereof. Such study or report shall be individualized to the owner/developer's property or proposed development or improvements, shall fairly and accurately delineate the need for additional public services or facilities which will be generated by the owner/developer's proposed development or improvement, and shall include consideration of the following criteria:
 - 1. Whether the proposed public improvements or facilities would be required but for the owner/developer's proposed development or improvement;
 - 2. Whether, and to what extent, it is reasonably likely that other developments or residents thereof will utilize the public facility or improvement in question;
 - 3. Whether existing public facilities or services can adequately serve the proposed development or improvement without the additional expense to construct, expand, or improve the public facility or service in question; and
 - 4. The conclusions of such study or report shall contain a recommendation as to the nature of the dedications(s) or impact fee(s) to be required, and the extent or amount thereof. In determining any such extent or amount of a dedication or impact fee to be required of an owner/developer, a proportion shall be established between the total cost of providing or expanding such necessary public facilities or services on the one hand, and the amount or extent of such total cost which is attributable to, or is caused or generated by, the proposed development or

improvement, on the other hand. The extent of the dedication or amount of the fee due from the owner/developer must bear roughly the same proportion to the total cost of providing the public services or facilities in question as the need for such facilities or services generated by the owner/developer's development or improvement bears to the general population's need for or use of the facilities or services.

- D. The owner/developer shall request such an individualized study or report at the pre-application conference prior to the submittal of a subdivision Sketch Plan application, Planned Unit Development Concept Plan application, or similar application and shall pay to the city a fee established by the City Council to secure a portion of the city's review and supervision expenses. In addition, at such time the owner/developer shall submit to the city a deposit in an amount established by the city equal to the estimated costs the city will incur for any necessary engineering, consultant and planning services to be performed by persons not employed on a full time basis by the city or by city staff. The required fee and deposit shall be tendered to the City Clerk and no public hearing on the owner/developer's application shall be held unless the fee and deposit is paid in full. Unless a request for an individualized study or report is made at the time provided herein, such right shall be deemed to be waived by the owner/developer.
- E. Prior to the approval of any requested rezoning, conditional use approval, subdivision approval, Planned Unit Development approval, other development approval or Planning Clearance for a building permit, if applicable, the owner/developer shall pay to the city the actual cost to the city for any engineering, consultant, or planning services provided under the direction of the city necessary to conduct the individualized study or report.
- F. The owner/developer may agree with the provisions of such study or report, in which case the same shall be submitted to the Planning Commission and the City Council as a joint finding and recommendation. However, if the owner/developer disagrees with all or any part of the city's report, the owner/developer may, at his sole expense, submit a written report detailing the owner/developer's findings with regard to the criteria set forth in this Chapter, and shall submit the same to the Planning Commission and the City Council. The Planning Commission and the City Council shall consider such reports at all required public hearings, and the City Council shall ultimately determine what dedications or impact fees, if any, are required, and if so, the extent or amount of such dedications or fees. The decision of the City Council shall be final, subject to the owner/developer's right to appeal to the Mesa County District Court.
- G. Any owner/developer may prepare or cause to be prepared, at his sole cost and expense, a study or report described in subsection (C) above. Said report shall be in writing and, upon the submission of such study or report, the owner/developer shall pay a fee established by the City Council to compensate the city for the review time and costs of the city's staff in reviewing said study or report. In the event the city needs to obtain engineering, consultant or planning services by a person who is not a regular full time employee of the city to conduct such review, the owner/developer shall pay the costs for such services in the manner set forth in subsection (C). The

city's staff shall review such study or report, and shall comment thereon in writing to the Planning Commission and the City Council. Any disagreement by the city's staff with any of the findings or conclusions of such study or report shall be delivered to the owner/developer of the development or improvement in question. In the event of disagreement between the city's staff and the owner/developer as to what dedications or impact fees should be required, the City Council shall determine what dedications or impact fees, if any, are required, and if so, the extent or amount of such dedications or fees. The decision of the City Council shall be final, subject only to the right of the owner/developer to appeal the same to the Mesa County Court.

- H. The city staff retains the right to require preparation and submittal of an individualized report or study as a condition of review of the proposed development, with said report(s) paid for solely by the developer/applicant.

17.19.050 BASIS OF DETERMINATION. In deciding whether to impose a dedication or impact fee requirement, and the extent of such dedication or impact fee, the Planning Commission and the City Council shall consider the criteria set forth in Section 17.19.030, and shall be guided by the overriding principle that an impact fee or public dedication requirement is unfair, disproportionate and unconstitutional if it imposes a burden on an owner/developer which in equity and fairness should be borne by the public in general. However, an impact fee or dedication will be required in compliance with all existing constitutional requirements when the failure of the owner/developer to provide the dedication or impact fee would fail to remedy impacts to the city, other local governments or to the general public created or exacerbated by the owner/developer's proposed project or improvement to such an extent that the City Council would be justified in denying approval of the proposed project or improvement.

17.19.060 FEE FUNDS ESTABLISHED; USE OF IMPACT FEES.

- A. All impact fees collected pursuant to this Chapter shall be deposited in funds created by the city and shall be used for the purposes for which they were collected. All impact fees collected pursuant to this Chapter shall be accounted for in the manner required by Sections 29-1-801, et. seq., C.R.S. and other applicable law.
- B. Funds collected from impact fees shall be used to acquire additional real property necessary for the purposes for which they were collected, or for purposes of acquiring or improving capital facilities, as defined in Section 29-20-104.5, C.R.S., related to the purposes for which such funds were collected. A "capital facility" includes planning, preliminary engineering, engineering design studies, land surveys, final engineering, permitting, and the construction and installation of all the necessary features for the facilities. Funds collected from impact fees shall not be used for periodic or routine maintenance of city or other government facilities.
- C. If an impact fee is assessed in lieu of a dedication to address large scale impacts that are borne by the city and by the public in general, as in the case of school land dedication fees, public site, park and open space fees, transportation impact fees and storm water and drainage management fees,

such impact fees shall be considered as directly benefiting the proposed development even if such fees are used to partially fund the mitigation of impacts that are of general benefit to the community as a whole.

- D. In the event that bonds or similar debt instruments are issued for the advanced provision of capital facilities for which impact fees may be expended, such fees may be used to pay debt service on such bonds or similar debt instruments.
- E. The City Council may, by an affirmative vote of at least three-fourths (3/4) of all members of the Council, waive, suspend or alter all or some of the impact fees imposed by this Chapter, or agree to pay some or all of the impact fees imposed on a proposed development or redevelopment from other funds of the city that are not restricted to other uses upon finding such waiver, suspension, alteration or payment is necessary to promote the economic development of the city or the public health, safety and general welfare of its residents. Any resolution adopted by the City Council providing for the waiver, suspension or altering of impact fees shall contain specific findings of fact supporting the waiver, suspension, altering, or payment.
- F. Monies in the impact fee account shall be considered to be spent in the order collected, on a first-in/first-out basis.

17.19.070 CREDITS, OFFSETS, AND REIMBURSEMENTS.

- A. As a general policy, developers that propose, or are required to physically construct improvements of a type and nature for which an impact fee would normally be assessed shall be eligible for offsets of up to one hundred (100) percent of the impact fees assessed to a particular phase or filing of a development, provided that the constructed improvements are of general benefit to the City of Fruita and general public, as determined by the city, and are not required solely because of the development.
- B. For constructed improvements meeting the provisions of subsection (A) above, where the construction cost exceeds the assessed impact fee, developers are eligible for additional credit against impact fees assessable at a future phase or filing, or for reimbursement by the city from previously collected impact fees. Credits for the cost of constructed improvements may be carried over or transferred to successive filings or phases within the same development, but in no case shall credits be carried over or transferred to a different development or project.
- C. In all cases, offsets or credits against one (1) fee, such as a transportation impact fee, cannot be used to offset or credit another type of fee, such as a Public Sites, Parks and Open Spaces dedication fees.
- D. Constructed improvements to designated State Highways are eligible for the same offsets and credits provided for improvements to other streets and roads, provided the improvements are of

benefit to the general public and not just the property being developed. By way of example, street widening and the installation of a sidewalk along a State Highway would be eligible for offsets and credits, but acceleration/deceleration lanes strictly servicing the development would not be eligible for offsets or credits.

- E. Specific to transportation impact fees, offsets or credits for the value of right-of-way abutting the development are specifically not allowed.
- F. The purpose and monetary value of any offset, credit, or reimbursement against assessed impact fees shall be specifically delineated in the appropriate section of the subdivision or development improvements agreement for the development, and the basis (e.g. cost of constructed improvements) of the offset, credit, or reimbursement shall be detailed in the improvements agreement.

17.19.080 REFUND OF IMPACT FEES PAID.

- A. If a development approval expires without commencement of construction or development, the developer shall be entitled to a refund without interest, of impact fees paid as a condition for its issuance, unless otherwise agreed by the city and the owner/developer, except that the city shall retain one (1) percent of the fee to offset a portion of the cost of collection and refund. The owner/developer must submit a letter requesting a refund to the Community Development Department within thirty (30) days following expiration of the development approval granted.
- B. Unless otherwise provided in this Title, any funds not expended or encumbered by the end of the calendar quarter immediately following ten (10) years from the date the impact fees were paid shall, upon application of the then current land owner, be returned to such land owner with interest at the legal rate, provided that the land owner submits an application for a refund to the Community Development Department within one hundred eighty (180) days following expiration of such ten (10) year period.

17.19.090 PUBLIC SITES, PARKS AND OPEN SPACES DEDICATION/FEE. Consistent with this Section and with Chapter 17.29 of this Title, every development and subdivision shall include a dedication of land to the city or other entity, as determined by the City Council, to be used for parks, recreation functions requiring land, open spaces or public sites and/or payment of a public sites, parks and open spaces fee in lieu of such dedication, as provided herein, at the time of approval of the subdivision Final Plat, Final Planned Unit Development Plan, or issuance of a Planning Clearance for a building permit, whichever may first occur, except for Minor Subdivisions which can defer the public sites, parks and open space dedication/fee to the time of building permit for each individual lot. Every subdivision and development which increases the number of dwelling units above that which was approved as of the effective date of this Title shall make the additional dedication or fee payment based upon the increased number of units or acreage within the subdivision or development.

A. Description:

1. Dedicated land may include parks, trails, public sites and open spaces described in Chapter 17.29, and proposed public areas set aside in state, regional, county or city plans. Dedicated park land and public sites shall not include sites for technical, private or public schools, sites for service organizations which are not open to the general public, and sites unsuitable for public use due to steep slopes, rock formations, adverse topography, utility easements, or other features which may be harmful to health and safety.
2. Wherever a development proposal includes any part of a pedestrian, bicycle, or equestrian trail designated by the city in its plans, this area shall be contained in an out lot made available for public use and such out lot may be included in the required public sites, parks and open spaces dedication.
3. An adequate irrigation water rights dedication must be provided to the city for all public site and parkland dedications.
4. The city, at its sole discretion, may elect to use the land dedication for any park, recreation, municipal or open space function, which it deems necessary. Such use shall be compatible with surrounding uses.

B. Total Amount of Dedication Required. Public sites, parks, trails and open spaces land shall be dedicated in the ratio of 0.012 acres per resident of the proposed development, to be computed based on the following:

1. 3.5 residents per single family dwelling unit.
2. 3.0 residents per two-family dwelling unit.
3. 2.5 residents per multi-family dwelling unit or mobile home.

C. Dedication and Improvement of Public Sites, Parks and Open Spaces. Required public sites, parks and open spaces dedication requirements including improvement requirements are identified in Section 17.29.020 of this Title.

D. Payment in Lieu of Dedication.

1. The city may require the applicant to pay a fee in lieu of land dedications or to dedicate other property owned by the applicant for use as a public site, park, open space, land or other recreation purpose.
2. The amount of payment to be paid in lieu of dedication shall be based on the number of acres of

land dedication which otherwise would be required, using the fair market value of the total acreage of the subdivision or other development, in its current state of development, notwithstanding the fact that the owner may develop or propose to develop the property in filings or phases. Fair market value shall be determined based on a complete appraisal of the land conducted by a certified land appraiser licensed by the State of Colorado within one (1) year of the date the fee is paid as required by this Chapter. The owner shall pay all costs of the appraisal.

3. If the city determines to accept other property not within the development instead of or as partial payment toward the fee payment required hereunder, the value of the other property shall be its market value, as determined by a complete appraisal conducted by a certified land appraiser.
4. Payment of a fee in lieu of land dedication shall be calculated, due and payable at the time of subdivision Final Plat approval, Final Planned Unit Development Plan approval, or issuance of a Planning Clearance for a building permit, whichever may first occur, and shall be described in the subdivision improvements agreement or development improvements agreement, if applicable. Minor Subdivisions for only residential land uses may defer payment of impact fees until the time of Planning Clearance for a building permit for each individual lot. Minor subdivisions that defer the impact fees to the time of Planning Clearance are required to pay the fee in effect at the time of Planning Clearance approval.
5. The proceeds from a fee in lieu of land dedication, shall be placed in a public sites, parks and open spaces fund established by the city and maintained for the acquisition and improvement of land for public sites, parks, open spaces, trails, playgrounds and recreation areas, which may benefit the residents of the city in general, as well as those of the proposed subdivision or development.

17.19.100 SCHOOL LAND DEDICATION.

- A. When Required. Every subdivision or other development, which is proposed to contain residential units and which increases the number of permitted residential dwelling units over and above that approved as of the effective date of this Section shall be required to dedicate land for school purposes, based on the increased number of approved dwelling units, if the Mesa County School District No. 51 ("School District") determines that such development includes within it "suitable school lands" which are necessary for implementing a school plan. If such subdivision does not contain "suitable school lands," the fee required under Section 17.19.110 shall be paid in lieu of a school land dedication, based upon the increased number of approved residential dwelling units. The provisions of this Section and Section 17.19.110 shall be the exclusive standards for the dedication of "suitable school lands" and imposition of fees in lieu thereof as prescribed by Section 17.19.110, and in the event of any conflict between such provisions and any other provision contained in this Chapter, the requirements of this Section and Section 17.19.110 shall control.

In the event a dedication of land for school purposes is required under this Section, such dedication shall be made by the developer at or before the time of approval of the subdivision Final Plat or Final Planned Unit Development Plan, or Planning Clearance for a building permit. No such approval shall be granted until good and sufficient title to the "suitable school lands" to be dedicated under this Section, free and clear of all liens and encumbrances whatsoever, except for current general property taxes and patent reservations, is conveyed or dedicated to, and accepted by, the School District.

- B. Amount. The amount of "suitable school lands" which may be required to be dedicated under this Section shall be roughly proportional to the additional real property required by the School District for expansion of existing school facilities and construction of new school facilities to accommodate enrollment growth from the proposed residential subdivision and the future inhabitants thereof. Such rough proportionality shall be deemed to be met by the following formula:

$$\begin{array}{r} \text{Number of dwelling units in the proposed residential development} \\ \text{Student generation fee factor of .023} \\ \hline \text{Number of acres of suitable school lands required} \end{array} \quad \times \quad =$$

The student generation fee factor is based upon a study conducted by Mesa County School District No. 51 and referenced in the Intergovernmental Agreement between Mesa County School District No. 51 and the City of Fruita, and may be modified from time to time in the manner provided in subsection 17.19.110(F) below.

17.19.110 FEE IN LIEU OF SCHOOL LAND DEDICATION.

- A. When Required. Except for developments where a school land dedication is required in accordance with Section 17.19.100 above, or is permitted under subsection (D) below, or an exemption under subsection (C) applies, all proposed subdivisions and Planned Unit Developments, and mobile or manufactured home parks containing residential dwelling units, and which increases the number of approved dwelling units over and above the number approved as of the effective date of this Section, shall pay fees in lieu of school land dedication (SLD fee) in an amount per unit, based upon the increased number of dwelling units, set forth in subsection (F) hereof. In no case shall the requirement of SLD fees or the amount thereof be subject to individualized determination as provided in subsection 17.19.040(C) or (D). SLD fees shall be collected by the city for the exclusive use and benefit of the School District, and shall be expended by such School District solely to acquire real property or an interest in real property reasonably needed for development or expansion of school sites and facilities, or to reimburse the School District for sums expended to acquire such property or interests. Revenues derived from such fees shall be used only for such purposes.

B. Payment of SLD Fee.

1. No Final Plat for a subdivision or Final Planned Unit Development Plan or Planning Clearance for a building permit containing residential units shall be approved until and unless the applicable SLD fee in effect at the time such approval is applied for has been paid as required by this Section based on the increased number of approved dwelling units. No SLD fee shall be required or collected under this Section with respect to any subdivision for which final approval has been granted as of the effective date of this Section. Minor Subdivisions may defer the payment of impact fees until the time of Planning Clearance for a building permit. Minor subdivisions for only residential land uses that defer the impact fees to the time of Planning Clearance are required to pay the fee in effect at the time of Planning Clearance approval.
2. In the sole discretion of the City Council, the city may elect to approve a Final Plat or Final Planned Unit Development Plan or Planning Clearance for a building permit subject to payment of required SLD fees due under this Section pursuant to a deferred payment plan. Provided, however, any deferred payment plan shall provide for a performance guarantee such as a performance bond, irrevocable letter of credit, or escrow fund approved by the City Council, to assure payment of such fees.
3. Any plan for payment of SLD Fees on a deferred basis in accordance with subsection (B)(2) above shall be documented in a written deferred payment plan referenced on the recorded Final Plat or Final Planning Unit Development Plan. Such deferred payment plan shall contain, at a minimum, the following:
 - a. The legal description of the real property subject to the deferred payment plan.
 - b. A detailed statement of the SLD fees owed pursuant to the condition of approval of the Final Plat of the subdivision or Final Planned Unit Development Plan or Planning Clearance for a building permit, which remain unpaid.
 - c. The agreement of the owner/developer to pay all SLD fees owed with respect to such real property upon the sale of such property or upon application for a Planning Clearance for a building permit for one (1) or more dwelling units to be constructed on such property, which ever first occurs.
 - d. A description of the performance guarantee assuring that such fees shall be paid when due and owing.
 - e. The notarized signature of the record owners of the property or their duly authorized agents.
 - f. The notarized signature of the Community Development Department Director or his or her

designee, indicating approval of the deferred payment plan.

C. Exemptions. The following shall be exempted from dedication of school lands or payment of the SLD fee:

1. Subdivisions or other developments containing only non-residential buildings, other structures, or non-residential mobile homes;
2. Subdivisions or other developments containing only nursing homes, adult foster care facilities, or specialized group care facilities; and
3. Approved residential developments that are subject to recorded covenants restricting the age of the residents of dwelling units contained within such developments in such a manner that the dwelling units may be classified as "housing for older persons" pursuant to the Federal Fair Housing Amendments Act of 1988.

D. Credits.

1. An applicant for subdivision or other development approval who owns other "suitable school lands" within the same School District may offer to convey such lands to the District in exchange for credit against all or a portion of the SLD fees otherwise due or to become due. The offer must be in writing, specifically request credit against fees in lieu of school land dedication, and set forth the amount of credit requested. If the city and the School District accept such offer, the credit shall be in the amount of the value of the "suitable school lands" conveyed, as determined by written agreement between the city, the School District and the developer.
2. Credit against SLD fees otherwise due or to become due will not be provided until good and sufficient title to the property offered under this subsection is conveyed to and accepted by the School District in which the development is located. Upon such conveyance, the School District and the city shall provide the developer with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and a description of the project or development to which the credit shall be applied.
3. Credits shall not be transferable from one project or development to another.

E. Refund of Fees Paid.

1. Any SLD fee, which has not been expended by a School District within five (5) years of the date of collection shall be refunded, with all accumulated interest, if any, to the person or entity which paid the fee. Prior to such refund, such amount shall be reduced by an amount equal to three (3) percent of the principal amount to be refunded, for the costs incurred by the city in the refund of such fee. The city shall give written notice by first class mail to the person or entity,

which paid the fee at the last known address as contained in the records of the city or Mesa County Clerk and Recorder. If such person or entity does not file a written claim for such refund with the city within ninety (90) days of the mailing of such notice, such refund shall be forfeited and shall be retained and used for the purposes set forth in subsection 17.19.110(A).

2. The City Council may, upon the School District's request, extend the five (5) year period of time specified in Paragraph (1) of this subsection above upon a showing that such extension is reasonable necessary in order for the School District to complete or close a purchase transaction entered into in writing by the District prior to expiration of such period, or to give the District an opportunity to exercise a purchase option it acquired prior to expiration of such period. Such request shall be made at a public hearing of the City Council. In no event shall any extension of time exceed one (1) additional five (5) year period.

F. SLD Fees-Establishment and Application.

1. SLD fees shall be collected and held in trust for the use and benefit of the School District pursuant to Section 17.19.120. Such fees shall be expended by the School District to acquire additional real property for expansion of existing school facilities and construction of new school facilities necessitated by new residential development in the School District, or to reimburse the School District for sums expended to acquire such property. The amount of the SLD fee shall be based on a methodology which takes into account the student generation rates of new residential development, the quantity of land required to build new school facilities on a per pupil basis, and the anticipated cost of acquiring suitable school lands in the School District to expand existing school facilities and construct new school facilities to accommodate new residential development without decreasing current levels of educational services.
2. At the time SLD fees are initially adopted and annually thereafter, the City Council shall determine the average cost per acre of "suitable school lands," after a public hearing. The city shall give the School District sixty (60) days prior written notice of the hearing. Such hearing shall consider the School District's long range capital improvement plans and any other evidence, comments or recommendations submitted by the School District and the public in making such determination.
3. The SLD fee shall then be set, by resolution of the City Council, in accordance with the following formula:

Cost per acre of suitable school lands within the School District x
Student generation fee factor of .023=
SLD fee per dwelling unit

[For example, if the average cost of "suitable school lands" is fifteen thousand dollars (\$15,000.00) per acre, the SLD fee per dwelling unit would be fifteen thousand dollars

(\$15,000.00) times (X) .023, or three hundred forty-five dollars (\$345.00).]

4. The student generation fee factor may also be modified at the hearing, provided that either the School District gives notice to the City Council that it requests such a modification at least thirty (30) days prior to the hearing, or the City Council adopts a motion providing for consideration of a modification of said fee factor and its hearing notice to the School District pursuant to this subsection so states. Said hearing shall consider the School District's school facilities plan currently in place, the methodology and data supporting the proposed modification, and any evidence, comments or recommendations submitted by the County Community Development Department, the City's Community Development Department, the School District and interested members of the public.

17.19.120 SCHOOL LAND DEDICATION FEE TRUST FUND.

A. Creation. A School Land Dedication Trust Fund ("SLD Trust Fund") shall be established for the benefit of School District. All SLD fees collected by the City, pursuant to this Chapter, for approved residential dwelling units in the city and within the boundaries of the School District shall be deposited in the SLD Trust Fund. Such SLD Trust Fund shall be governed by the provisions of this Chapter, as supplemented by the terms of the intergovernmental agreement entered into between the city and the School District. Such agreement shall substantially comply with the requirements of this Section, and shall include, but need not be limited to, provisions regarding the following:

1. Maintenance and management of the SLD Trust Fund as a separate interest bearing account in accordance with Sections 24-75-601 to 605 C.R.S., apart from all other funds of the city, the funds in which are held in trust for the use and benefit of the School District;
2. The powers and fiduciary obligations of one (1) or more trustees named in the agreement with respect to the management of the SLD Trust Fund;
3. The retention of a specified portion of the SLD fees collected by the city for the reasonable costs incurred by the city in the collection of said fees;
4. An accounting system to ensure that SLD fees are expended for the provision of new or expanded school sites benefiting the School District for which such fees are paid;
5. An annual audit of the SLD fees collected and disbursed, with said audit to be in accordance with generally accepted accounting standards for governmental entities;
6. A periodic update of the School District's school facilities plan;
7. An agreement by the School District to submit an annual report to the city describing the School

District's expenditure of SLD fees during the preceding fiscal year;

8. An agreement by the School District to furnish, when requested by the city, an accounting from the chief financial officer of the District concerning the expenditure of the SLD fees paid to the School District; and
9. An annual review by the City of the matters set forth in the report described in subsection 17.19.110(F) above.

Any intergovernmental agreement entered into pursuant to this subsection may contain terms permitting an SLD Trust Fund to be managed by one (1) or more trustees in combination with other SLD Trust Funds established under provisions of comparable school site fee resolutions or ordinances adopted by the county or other municipalities within the county.

B. Ownership. The School District shall be beneficial owner of the funds in its SLD Trust Fund, but the signature of the chief financial officer of the School District, or his or her designee, and the signature of the City Manager or his or her designee, shall be required for the withdrawal of monies from such fund.

C. Earmarking And Expenditure Of SLD Fees.

1. All SLD fees collected by the city shall be properly identified and promptly deposited in the SLD Fee Trust Fund, and shall not be withdrawn for any purpose except as authorized in accordance with this Chapter, and any applicable intergovernmental agreement;
2. Each SLD fee collected by the city pursuant to this Chapter, shall be earmarked for the School District, and shall be expended only for the purposes set forth in this Chapter. Any changes to School District boundaries that would affect the expenditure of fees in lieu of land dedication must be reviewed by the City Council prior to the implementation of such changes. Such fees shall not be used to pay general obligation bonds, or to compensate for costs incurred by the School District for costs incurred to upgrade existing educational facilities, unless such fees are expended for the purpose of increasing the site or land area for such existing facilities for the benefit of the School District.
3. Upon the written request of the School District or its authorized representative, the City Council or its authorized designee shall promptly notify the Board of Education of the amount of fees in lieu of dedication received and deposited in the SLD Trust Fund for its benefit and the amount of interest earned thereon, as of the end of the month immediately preceding the month in which the request was made. Upon receipt of such notice, the School District may file with the Board a request for disbursement to such District of all or part of the fees and interest accumulated in its SLD Trust Fund for purposes authorized by this Chapter.

4. Such request for disbursement shall be in writing, set forth the amount of funds needed, and contain a brief description of the purposes for which the funds will be used.
5. Such request shall be heard at a regular meeting of the City Council held within thirty (30) days after it is filed, at which time the School District, through its authorized representative, shall demonstrate to the City Council a need for the moneys requested to expend for purposes authorized by this Chapter. Such demonstration shall be deemed sufficient if it is shown that the request is in furtherance of an existing capital improvement or site acquisition plan duly adopted by the Board of Education and has been included and relied upon in its budget for the fiscal year in which the moneys are to be expended. Upon the City Council's approval, which shall not be unreasonably withheld, the requested funds shall be transferred to the School District's Capital Projects Fund.

17.19.130 TRANSPORTATION IMPACT FEE.

- A. The City of Fruita has determined that new developments and expansion, modification or redevelopment of existing developments cause financial impacts to the city's street system necessitating capital improvements that would not be required without such development. These impacts include wear and tear on existing pavements requiring rehabilitation or reconstruction of existing streets, increased traffic volumes requiring widening to improve traffic flow and provide better turning movements, additional traffic control devices and safety concerns associated with the interaction of vehicular traffic with pedestrian and bicycle traffic.
- B. The city has further determined that typically, no single development creates enough traffic to warrant construction of off-site improvements based strictly on a traffic capacity analysis or a required level of service analysis. However, each development incrementally depletes existing capacity and incrementally decreases the level of service. The cumulative impacts from new developments results in unacceptable depletions in capacity and level of service, thereby requiring the expenditure of capital funds for improvements.
- C. The city has also determined that irrespective of a capacity or level of service analysis for traffic flow, construction of facilities to facilitate safe turning movements for vehicles, and for the safe movement of bicycles and pedestrians are reasonable requirements for urban streets, and shall be accounted for in any impact fee calculation.
- D. Consistent with the city's need to plan for, engineer and construct street improvements resulting from the cumulative impacts of new development, including bikeways and sidewalks, the city's general policy is that the proportional impact resulting from a new development be paid by the developer, and consistent with the provisions of this Chapter, a transportation impact fee shall be assessed for new development based on the fees in effect at the time of Final Plat approval, Final PUD Plan, or issuance of a Planning Clearance, whichever may first occur.

1. For developments for which a site specific traffic impact analysis is conducted pursuant to Sections 17.19.040 and 17.15.140 of this Title, the transportation impact fee shall be calculated by the city based upon the following criteria:
 - a. An evaluation of the site-specific traffic impact analysis, which shall describe the percentage impact of the development on the local street network in the vicinity of the development. The traffic impact analysis shall include an estimate of twenty (20) year future traffic volumes, and use a pass-by traffic growth rate of two (2) percent or less, unless otherwise approved by the city.
 - b. Estimated costs of future improvements on local streets and intersections, plus a calculated pro rata cost for improvements to regional roads. The scope of future local improvements shall be based on the long term needs of the city, as determined by the city, consistent with long range planning documents, and irrespective of a strict level of service analysis. Improvements may include, but are not limited to, curb, gutter, and sidewalk; bikeways; traffic signals; pavement widening, replacement, or rehabilitation; traffic calming devices; and traffic control devices. The scope of future regional road improvements, and estimated costs thereof, shall be determined from current and future regional planning studies, including the Transportation Impact Fee Study prepared for Mesa County by Duncan & Associates, and dated September, 2002. (The "Duncan Study")
 - c. The roughly proportional impacts from the development on individual local streets and/or intersections multiplied by the total estimated costs for these improvements, plus a calculated pro rata amount for regional roads, shall equal the total transportation impact fee.
2. The base rate for residential subdivisions with single family and duplex dwelling units for which no traffic impact analysis is performed, shall be three thousand two hundred dollars (\$3,200.00) per dwelling unit. The base rate may be adjusted by resolution of the City Council annually for inflation based on the change in the Colorado Department of Transportation's Construction Cost Index. For multi-family dwelling units in excess of two units , the base rate of three thousand two hundred dollars (\$3,200.00) shall be multiplied by a factor of 0.69 per unit for the fee per dwelling unit. Said fees are based upon traffic impact analysis performed according to subsection (D)(1) of this Section and adjusted to reflect recent actual costs incurred on local road projects. The base rate may be adjusted by resolution of the City Council annually for inflation based on the change in the Colorado Department of Transportation's Construction Cost Index.
3. The transportation impact fee for commercial, industrial and other uses specified in the following table shall be a base rate of one thousand five hundred and eighty-nine dollars (\$1,589) multiplied by the factor listed for that use. The base rate may be adjusted by resolution of the City Council annually for inflation based on the change in the Colorado Department of Transportation's Construction Cost Index.

LAND USE TYPE	ITE CODE	UNIT	FACTOR
Other			
Mobile Home/Manufactured Home/RV Park	240	per unit or space	0.50
Hotel/Motel	310/320	per room	0.94
Retail/Commercial			
Shopping 0 - 99.9 KSF	820	Per 1000 sf floor	1.64
Shopping 100 - 249.9 KSF	820	Per 1000 sf floor	1.54
Shopping 250 - 499.9 KSF	820	Per 1000 sf floor	1.49
Shopping >500KSF	820	Per 1000 sf floor	1.38
Auto Sales / Service	841	Per 1000 sf floor	1.48
Bank	911	Per 1000 sf floor	2.49
Convenience Store w/ Gas Sales	851	Per 1000 sf floor	3.58
Golf Course	430	Hole	2.33
Health Club	493	Per 1000 sf floor	1.34
Movie Theater	443	Per 1000 sf floor	4.14
Restaurant, Sit Down	831	Per 1000 sf floor	2.02
Restaurant, Fast Food	834	Per 1000 sf floor	4.52
Office/Institutional			
Office, General 0 - 99.9 KSF	710	Per 1000 sf floor	1.23
Office, General > 100 KSF	710	Per 1000 sf floor	1.05
Office, Medical	720	Per 1000 sf floor	3.47
Hospital	610	Per 1000 sf floor	1.61
Nursing Home	620	Per 1000 sf floor	0.45
Church	560	Per 1000 sf floor	0.77
Day Care Center	565	Per 1000 sf floor	1.60
Elementary/Secondary School	520/522/530	Per 1000 sf floor	0.25
Industrial			
Industrial Park	130	Per 1000 sf floor	0.73
Warehouse	150	Per 1000 sf floor	0.52
Mini-Warehouse	151	Per 1000 sf floor	0.18

Note: All factors for all uses are based on the sum total of non-regional and regional costs/unit from Table 16 and Table 17 of the Duncan Study published in September, 2002, with the value of the ratio for a single family unit assumed to be 1.0.

4. For specific uses not identified in the table above, the transportation impact fee factor shall be determined by the city based on an evaluation of the traffic generating characteristics of the proposed development compared to specific uses listed in the table.
 - a. For non single family residential developments for which no traffic impact analysis is performed, the transportation impact fee shall be calculated based on the schedule set forth in subsection (3) above.

- b. A change of use in an existing commercial, industrial, or institutional structure that does not involve a change in the square footage of the structure shall not require a new transportation impact fee unless the use requires a site plan review, conditional use permit or zone district amendment in which case a traffic study may be required and a transportation impact fee may be imposed based on the net increase in traffic. Alternatively, the transportation impact fee assessed shall be calculated based on the difference in Table Values for the new versus the previous use.
 - c. In many instances, a particular structure may include auxiliary uses associated with the primary land use. For example; in addition to the actual production of goods, manufacturing facilities usually also have office, warehouse, research, and other associated functions. The impact fees generally are assessed based on the primary land use. If the applicant can document that a secondary land use accounts for over twenty-five (25) percent of the gross floor area of the structure, and that the secondary use is not assumed in the trip generation or other impact data for the primary use, then the impact fees may be assessed based on the disaggregated square footage of the primary and secondary land use.
 - d. For an expansion, redevelopment, or modification of an existing development, the fee shall be based on the net increase in the impact of the new use and/or square footage as compared to the previous use and/or square footage.
 - e. In the event that the proposed change of land use type, redevelopment, or modification results in a net decrease in the fee for the new use or development as compared to the previous use or development, there shall be no refund of impact fees previously paid.
 - f. For fees expressed per one thousand (1,000) square feet, the square footage shall be determined according to gross floor area, measured from the outside surface of exterior walls and excluding unfinished basements and enclosed parking areas. The fees shall be prorated and assessed based on actual floor area, not on the floor area rounded to the nearest one thousand (1,000) square feet.
5. Transportation impact fees shall be due and payable prior to recording of the Final Plat for a residential subdivision, or at the time of Planning Clearance approval for Site Plans for multi-family or non-residential developments except for Minor Subdivisions, which can defer payment of the transportation impact fee to the time of building permit for each individual lot. Minor subdivisions for only residential land uses that defer the impact fees to the time of Planning Clearance are required to pay the fee in effect at the time of Planning

Clearance approval.

6. All transportation impact fees shall be deposited in a fund created by the city for transportation improvements until used to construct actual capital facilities and improvements on impacted local streets and intersections, or allocated to regional road improvements. Consistent with Section 17.19.060, the total amount of deposited impact fees may be used at the discretion of the City to construct improvements to the local street network, or to regional street projects, so long as the fees are used to perform improvements to streets and/or intersections impacted by the development.

17.19.140 CHIP AND SEAL IMPACT FEE. The city has determined that the life of a new asphalt street can be extended through the use of a "chip and seal" coat within the first two (2) to five (5) years after the construction of the new street. In order to extend the life of asphalt streets in new developments and reduce initial maintenance costs to the City of Fruita, a chip and seal development impact fee will be assessed at the time of Final Plat or Planning Clearance approval, whichever shall first occur, for each new development that provides additional constructed public streets. The chip and seal impact fee changes annually, and is calculated based on the current square yard bid cost of chip and seal work, as contracted by the city, multiplied by the total number of square yards of new asphalt for dedicated, city maintained streets interior to a development as shown in the approved schedule of improvements contained in the applicable subdivision improvements agreement or development improvements agreement. The chip and seal impact fee imposed by this Section shall be paid prior to the recording of a subdivision Final Plat, a PUD Final Plan, or upon issuance of a Planning Clearance, whichever event shall first occur, except for Minor Subdivisions for only residential land uses which can defer the chip and seal impact fee to the time of building permit for each individual lot. Minor Subdivisions that defer impact fees to the time of Planning Clearance are required to pay the fee in effect at the time of Planning Clearance approval.

17.19.150 DRAINAGE IMPACT FEE.

- A. The City of Fruita had prepared a Storm Water Management Master Plan (SWMMP) (June 1998) which provides general policy guidelines and planning recommendations for storm water management, and provides specific criteria for calculating drainage impacts and associated impact fees for new developments. The City of Fruita has determined that storm water management is a desirable and necessary part of new developments, and has adopted the Storm Water Management Master Plan (SWMMP) (June 1998) as a component of its Master Plan. Technical criteria for drainage calculations are also found in the Mesa County Storm Water Management Manual (SWMM), which has also been adopted as a component of the city's Master Plan.
- B. Consistent with the justifications and formula found in the SWMMP, a drainage impact fee shall be

assessed for all new developments when the calculated runoff volume and/or flow rate from developed conditions exceeds the runoff volume and/or flow rate from historic (pre-development) conditions. A drainage impact fee which the City Council has determined is roughly proportional to the infrastructure impacts caused by the development, shall be calculated by the city for all new developments, according to the following formula:

Drainage impact fee (\$) = $B \times (C100_d - C100_h) \times A^{0.7}$ where:

B = Base Value = \$15,793, as of January 1, 2009, to be adjusted annually for inflation based on the Consumer Price Index, All Items, All Urban Consumers, Western Region, size B/C, published on a monthly basis by the United States Department of Labor (Bureau of Labor Statistics) (ACPI-U).

C100 = 100 year Rational Method composite runoff coefficient, with subscripts "d" and "h" representing developed and historic conditions respectively.

A = Area to be developed, in acres

- C. Consistent with Section 17.19.060 of this Chapter, drainage impact fees shall be deposited in a fund established by the city for such purposes and shall be used to resolve drainage and flooding issues anywhere within the basin affected by the development being charged the impact fee, and may also be used for city-wide or regional studies and plans, so long as the percentage of impact fees used on city-wide or regional studies and plans is roughly proportional to the percentage of the study or plan devoted to the basin from which the fees were generated.
- D. The drainage impact fee imposed by this Section shall be calculated at the time of Final Plat or Planning Clearance approval, whichever shall first occur, and be paid prior to the recording of a subdivision Final Plat, or approval of a Planning Clearance, whichever shall first occur, except for Minor Subdivisions for residential land uses which can defer the drainage impact fee to the time of building permit for each individual lot. Minor Subdivisions that defer impact fees to the time of Planning Clearance are required to pay the fee in effect at the time of Planning Clearance approval.

Chapter 17.21
SUBDIVISION AND DEVELOPMENT IMPROVEMENTS AGREEMENTS

Sections:

- 17.21.010 General Requirements**
- 17.21.020 Construction of Improvements**
- 17.21.030 Schedule of Improvements to Be Constructed**
- 17.21.040 Timetable for Construction of Required Improvements**
- 17.21.050 City Inspections of Improvements**
- 17.21.060 Final Approval of Improvements by City Staff**
- 17.21.070 Conveyance of Public Improvements**
- 17.21.080 Warranty for Public and Other Required Improvements**
- 17.21.090 Revegetation of Disturbed Areas Required**
- 17.21.100 Performance Guarantee Required**
- 17.21.110 Indemnification and Insurance**
- 17.21.120 Default; Notice and Termination of Subdivision or Development Improvements Agreements**
- 17.21.130 Issuance of Certificate of Compliance**

17.21.010 GENERAL REQUIREMENTS. An approval of a land development application which requires a subdivision improvements agreement or development improvements agreement does not become effective until a subdivision or development improvements agreement and related documents, setting forth financial arrangements to secure the actual construction of required public or semi-public (shared) improvements required by the city, has been executed between the property owner and the City Council. The subdivision improvements agreement or development improvements agreement shall include a guarantee to construct all required improvements together with collateral which shall be sufficient to ensure the completion of the required improvements. With the property owner's written consent, the City Council may enter into a subdivision improvements agreement or development improvements agreement with a developer or applicant who is not the property owner, provided that the agreement(s) shall be binding on the subject property and shall run with the land.

17.21.020 CONSTRUCTION OF IMPROVEMENTS. Every subdivision improvements agreement or development improvements agreement shall provide that the applicant, at its sole cost and expense, shall design, purchase, construct and install all elements of all improvements, whether such improvements are located within the subdivision or development property (on-site) or outside of the subdivision or development (off-site). The improvements shall be designed and built in conformance with this Title and other applicable city ordinances, building codes and regulations in effect as of the effective date of the

subdivision improvements agreement or development improvements agreement, and the approved for construction drawings. Prior to the commencement of construction of the subdivision or development improvements, the city shall review and approve all drawings and plans.

17.15.270 RELATED COSTS - PUBLIC AND OTHER REQUIRED SUBDIVISION IMPROVEMENTS. A subdivider shall provide, at its sole cost, all necessary engineering designs, surveys, field surveys, as-built drawings and incidental services, including the cost of updating city mapping related to the construction of the public and other required subdivision improvements.

17.21.030 SCHEDULE OF IMPROVEMENTS TO BE CONSTRUCTED. Every subdivision improvements agreement or development improvements agreement shall include a schedule of the required improvements showing in detail the required improvements, the costs thereof, and make reasonable provision for the completion of said improvements in accordance with design and time specifications. No work shall be commenced on such improvements until such time as the schedule of improvements has been approved by the city and the required performance guarantee has been delivered to the city.

17.21.040 TIMETABLE FOR CONSTRUCTION OF REQUIRED IMPROVEMENTS. Every improvement identified in the subdivision improvements agreement or development improvements agreement shall include a time schedule for the construction and completion of the required improvements. Said schedule shall provide for a commencement date as well as a date when such improvements will be substantially completed. Under such schedule, all required subdivision or development improvements shall be completed no later than one (1) year following the start of development, unless otherwise agreed by the City Council.

Where a developer or property owner is prevented from commencing or completing any of the required improvements within the time periods set forth in the subdivision improvements agreement or development improvements agreement, the times for commencement and/or completion of such improvements may be extended by the City Manager in accordance with Section 17.05.040.

17.21.050 CITY INSPECTIONS OF IMPROVEMENTS. Every subdivision improvements agreement or development improvements agreement shall provide that the city shall have the right to make inspections and require testing during construction of the required improvements in such reasonable intervals as the responsible city officials may request. Inspection, acquiescence and approval of any inspector of the construction of physical facilities, at any particular time, shall not constitute an approval by the city of any phase of the construction of such improvements. Such approval shall be made by the city only after completion of construction of all improvements in the manner set forth in Section 17.21.060. The city also reserves the right to perform or contract for independent quality assurance tests to confirm compliance with city requirements.

17.21.060 FINAL APPROVAL OF IMPROVEMENTS BY CITY STAFF. Every subdivision improvements agreement or development improvements agreement shall provide that upon completion of construction of all required improvements, the responsible city officials shall perform final inspections of the improvements and certify with specificity their conformity or lack thereof to the approved plans, specifications and design standards. The subdivision improvements agreement or development improvements agreement shall further provide that the property owner or developer shall make all corrections necessary to bring the improvements into conformity with applicable city standards, approved for construction drawings, and the utility, drainage and street improvements plans and requirements of other agencies, as approved. The city shall be under no obligation to provide any wastewater collection service, street maintenance or issue any further planning clearances for building permits or certificates of occupancy, until all such facilities are brought into conformance with the applicable standards, plans and specifications and approved by the responsible city officials.

17.21.070 CONVEYANCE OF PUBLIC IMPROVEMENTS. A subdivision improvements agreement or development improvements agreement shall provide that all public improvements shall be conveyed to the city or other public entity, as applicable. Upon completion of construction in conformity with the applicable plans, standards, specifications and any properly approved changes, and final approval by the responsible city official, all public improvements shall be conveyed to the city or Colorado Department of Transportation or other public entity, as applicable. Acceptance of said conveyance to the city shall be made by majority vote of the City Council. Following such conveyance, the city shall be solely responsible for the maintenance of such public improvements, unless otherwise provided for by the agreement, except for any correction work required during the warranty period.

17.21.080 WARRANTY FOR PUBLIC AND OTHER REQUIRED IMPROVEMENTS.

The property owner or developer shall warrant in the subdivision improvements agreement or development improvements agreement all required improvements for a period of twenty-four (24) months from the date the City Council accepts such improvements. Specifically, but not by way of limitation, the property owner or developer shall warrant the following:

- A. That the title conveyed shall be good and its transfer rightful;
- B. Any and all facilities conveyed shall be free from any security interest or other lien or encumbrance;
and
- C. Any and all facilities so conveyed shall be free of any and all defects in materials or workmanship.

17.21.090 REVEGETATION OF DISTURBED AREAS REQUIRED. Every subdivision improvements agreement or development improvements agreement shall provide that all areas disturbed by construction shall be promptly revegetated with native vegetation following completion of such work unless a building permit application has been requested for a particular lot, in which case revegetation shall be provided prior to legal occupancy of such lot. The property owner or developer shall comply with all city regulations concerning dust suppression, drainage and the control of other nuisances. In addition, the applicant or developer shall control all noxious weeds and rodents within such areas to the reasonable satisfaction of the city until conveyed to individual lot owners.

17.21.100 PERFORMANCE GUARANTEE REQUIRED.

- A. Every subdivision improvements agreement or development improvements agreement shall provide that in order to secure the construction and installation of the required improvements listed in the schedule of improvements, whether on-site or off-site, including tasks not specifically itemized within the schedule of improvements but which can be reasonably considered necessary for the development and for which the property owner or developer is responsible, the property owner or developer shall furnish the city with: (1) cash to be deposited in an escrow account that is acceptable to the city pursuant to an escrow and disbursement agreement approved by the city; or (2) an irrevocable letter of credit that is acceptable to the city, or (3) a performance bond issued by a surety approved by the city, in an amount equal to one hundred ten (110) percent of the estimated cost of all required improvements.
- B. The developer or property owner shall deliver to the city the performance guarantee required by subsection (A) above prior to the recording of a subdivision final plat, or prior to recording of a PUD final development plan, or prior to the issuance of a conditional use permit or planning clearance, as applicable. Unless expressly authorized by the city, work shall not be commenced within the development until the approved security is furnished to the city. No lot within a subdivision shall be conveyed to any third party until the approved security is delivered to the city and the final plat has been recorded in the records of the Mesa County Clerk and Recorder.
- C. Upon completion of a certain class of improvements, such as wastewater facilities by way of example, evidenced by a detailed cost breakdown of the completed improvements, the amount of any security tendered may be reduced by up to one hundred (100) percent of the approved cost for the installation of such class of improvements, upon approval by the city. Upon completion of all of the improvements required by the subdivision improvements agreement or development improvements agreement, and upon final inspection and approval by the city of all such improvements, the City Council shall further authorize a reduction of the amount of the security guaranteeing the required subdivision or development improvements to ten (10) percent of the total

actual cost of the improvements.

- D. Any performance guarantee tendered to the city shall be fully released and discharged only by express action of the City Council upon expiration of the twenty-four (24) month warranty period described in Section 17.21.080 and the correction of any defects discovered during such warranty period. In the event that the correction of defects are not satisfactorily completed upon the expiration of the twenty-four (24) month warranty period, the city will retain the existing performance guarantee and may require a new performance guarantee and withhold further planning clearances for building permits and certificates of occupancy within the subdivision or development until the new performance guarantee is tendered to the city.
- E. Every subdivision improvements agreement or a development improvements agreement shall provide that upon the developer's or property owner's failure to perform its obligations under such agreement and all other applicable plans, drawings, specifications and documents, as approved, within the time periods set forth in the agreement, the city may give written notice to the developer or property owner of the nature of the default and an opportunity to be heard before the City Council concerning such default. If the default has not been remedied within thirty (30) days of receipt of the notice or of the date of any hearing before the City Council, whichever is later (or such reasonable time period as is necessary to cure the default provided that the developer or the property owner has commenced in good faith to cure the default), the city may then give written notice to the developer or property owner and any surety on a performance bond, issuer of a letter of credit, or escrow agent that the city, as agent for the developer or property owner, is proceeding with the task of installing and completing the remaining required improvements in whole or in part.
- F. Every subdivision improvements agreement or development improvements agreement must contain a power of attorney whereby the developer or property owner designates and irrevocably appoints the City Manager of the City of Fruita, Colorado as its attorney in fact and agent for the purpose of completing all necessary improvements required by the subdivision improvements agreement or development improvements agreement in the event of a default by the developer or property owner. The agreement shall be recorded in the office of the Clerk and Recorder of Mesa County, Colorado, and shall constitute constructive notice of the agreement and the power of attorney contained therein. The agreement and power of attorney contained therein may be enforced by the city pursuant to all legal and equitable remedies available, including an action for specific performance in a court of competent jurisdiction.
- G. If a substantial amount of time elapses between the time of delivery of the security and actual construction of the improvements, the city may require a reasonable increase in the amount of the applicable security, if necessary because of estimated increased costs of construction.

17.21.110 INDEMNIFICATION AND INSURANCE. Every subdivision improvements agreement or development improvements agreement shall require the developer, property owner and any contractor or subcontractor employed by the developer or property owner who performs work within public rights-of-way, easements dedicated to the city, or within other property owned by the city to indemnify and hold harmless the City of Fruita, its officers, employees, insurers, and self insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with work performed by the developer or property owner, its contractors and subcontractors, within city rights-of-way, easements or other property, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, an act, omission, error, professional error, mistake, negligence, or other fault of the developer, property owner, or contractor, and any subcontractor. The city may also require in a subdivision improvements agreement or development improvements agreement that any contractor employed by the developer or property owner to perform work within public rights-of-way, easements dedicated to the city, or within any other property owned by the city to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands and other obligations assumed by contractors and subcontractors pursuant to this section.

17.21.120 DEFAULT; NOTICE; AND TERMINATION OF SUBDIVISION AND DEVELOPMENT IMPROVEMENTS AGREEMENTS. In the event of any default or breach by a property owner or developer of a covenant, term, condition or obligation contained in a subdivision improvements agreement or development improvements agreement, and if such default or breach continues after notice thereof and an opportunity of a hearing as set forth in this Chapter, the agreement may be forthwith terminated, at the option of the city. Any declaration of termination of an agreement shall be effective only after and upon a resolution to that effect adopted by the City Council. In the event a property owner or developer fails to construct any required improvements in accordance with the terms of a subdivision improvements agreement or development improvements agreement, the city may suspend approval of the development during which time the property owner or developer shall have no right to sell, transfer or otherwise convey tracts or lots within the development or property without the express written approval of the city.

17.21.130 ISSUANCE OF CERTIFICATE OF COMPLIANCE. Upon satisfactory completion of all required improvements, expiration of the applicable warranty period, and compliance with all of the terms of the subdivision improvements agreement or development improvements agreement, the city shall, upon request, execute a resolution or certificate stating that all improvements have been constructed in compliance with the subdivision or development improvements agreement.

Chapter 17.23
MANUFACTURED AND MOBILE HOME STANDARDS

Sections:

- 17.23.010 Purpose**
- 17.23.020 Placement of Manufactured Housing and Mobile Homes**
- 17.23.030 Recreational Vehicles Restricted**
- 17.23.040 Uncertified Mobile Homes**
- 17.23.050 Placement of Manufactured and Mobile Homes; Permits Required**
- 17.23.060 Manufactured Home Site Requirements**
- 17.23.070 Manufactured Home Design Standards and Building Requirements**

17.23.010 PURPOSE. The purpose of this Chapter is to set forth the conditions under which manufactured housing and mobile homes will be allowed within the City of Fruita.

17.23.020 PLACEMENT OF MANUFACTURED HOUSING AND MOBILE HOMES. It is unlawful within the City of Fruita for any person to place or park any manufactured home or mobile home as defined in Chapter 17.03, on any street, alley, highway or other public place, or on any tract of land owned by any person, firm, or corporation, occupied or unoccupied, within the city, except as provided in this Chapter and in other Chapters of this Title.

17.23.030 RECREATIONAL VEHICLES RESTRICTED. Recreational vehicles, travel trailers, and truck campers as defined in Chapter 17.03; and other camping vehicles are not considered manufactured homes or mobile homes and are not allowed in mobile home parks, manufactured home parks, or as permanent year round dwelling units. Recreational vehicles, travel trailers, truck campers and other camping vehicles are allowed in approved recreational vehicle parks and campgrounds for a limited time period. Recreational vehicles may be stored on residential, commercial or industrially zoned parcels of land in approved parking or recreational vehicle storage areas in conformance with the provisions of this Title.

17.23.040 UNCERTIFIED MOBILE HOMES. Mobile homes located within the City on the effective date of this Chapter, which have not been certified as conforming to the U.S. Department of Housing and Urban Development's (H.U.D.) 1984 Mobile Home Standards, as amended, are hereby declared legal nonconforming uses, but may not be replaced by another mobile home that is not H.U.D. certified.

17.23.050 PLACEMENT OF MANUFACTURED AND MOBILE HOMES; PERMITS REQUIRED. No person shall locate a manufactured or mobile home in the City of Fruita without first obtaining a planning clearance for a building permit from the Community Development Department.

17.23.060 MANUFACTURED HOME SITE REQUIREMENTS. Manufactured single family homes, as defined in Chapter 17.03, are allowed as a conditional use in all zones that

allow residential land uses. Manufactured homes are also permitted in manufactured home parks and manufactured home subdivisions. All manufactured homes shall comply with the design standards set forth below. An owner shall provide proof of all required certifications to the Community Development Department prior to the placement of any manufactured home on any parcel of land.

17.23.070 MANUFACTURED HOME DESIGN STANDARDS AND BUILDING REQUIREMENTS. Every manufactured home installed or located within the City of Fruita after the effective date of this Chapter shall comply with the following standards and requirements:

- A. The manufactured home sections must be partially or entirely manufactured in a factory;
- B. The finished home dimensions must be not less than twenty-four (24) feet in width and thirty-six (36) feet in length, excluding porches;
- C. The manufactured home must be set on an excavated, backfilled, engineered foundation enclosed at the perimeter so that the top of the perimeter wall sits no more than twelve (12) inches above finish grade. The foundation shall be similar in appearance and durability to a masonry foundation of a site-built dwelling. The foundation shall provide an anchoring system for the manufactured home that is totally concealed under the structure;
- D. The finished home must have brick, wood or cosmetically equivalent exterior siding on all exterior walls which provides a consistent, continuous facade from the bottom of the soffit (top of the wall section) downward to the top of the exposed perimeter foundation. The exterior siding of the finished home must have the same appearance as materials commonly used on residential dwellings. Metal siding must be painted or anodized;
- E. The finished home must have a pitched roof with a pitch of at least a nominal three in twelve (3:12). The roof must be covered with shingles, shakes, or tile. Eaves of the roof must extend at least one (1) foot from the intersection of the roof and the exterior walls;
- F. The finished home must have windows that are wood, vinyl coated or anodized aluminum;
- G. The finished home must have color-coordinated body and trim. Colors of both the factory components and the site-built components shall be the same;
- H. The main entrance to the finished home must face or be oriented toward an adjacent street;
- I. The transportation mechanisms including the wheels, axles and hitch must be removed;

- J. No finished home shall be occupied for dwelling purposes unless it is properly placed and connected to water, wastewater, electric and natural gas utilities, as appropriate, in conformance with the city's building codes set forth in Title 15;
- K. All manufactured homes shall be certified pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974," 42 U.S.C. §5401, *et seq.*, as amended, or shall be certified by the Colorado Division of Housing pursuant to Sections 24-32-701, *et seq.*, C.R.S.; and
- L. All finished homes shall have an enclosed crawl space underneath the finished home and shall not provide a harborage for rodents or create a fire hazard. No enclosed crawl space shall be used for storage unless the storage area is surfaced with concrete. Basements may be used to satisfy this requirement. Adequate access and ventilation shall be provided in accordance with the city's building codes set forth in Title 15 of the Fruita Municipal Code.

Chapter 17.25
MANUFACTURED AND MOBILE HOME PARKS AND SUBDIVISIONS

Sections:

- 17.25.010** **Manufactured and Mobile Home Parks; General Provisions**
- 17.25.020** **Density, Dimensional and Spacing Standards for Manufactured or Mobile Home Parks**
- 17.25.030** **Manufactured and Mobile Home Park Design Standards**
- 17.25.040** **Miscellaneous Requirements for Manufactured or Mobile Home Parks**
- 17.25.050** **Manufactured or Mobile Home Park Application Submittal Requirements**
- 17.25.060** **Manufactured Housing Subdivisions**

17.25.010 MANUFACTURED AND MOBILE HOME PARKS; GENERAL PROVISIONS

- A. Description. Manufactured and mobile home parks are a high density residential use on a parcel of land under single ownership or control on which two (2) or more manufactured homes or mobile homes may be permitted as a conditional use within the Community Residential (CR) zone and the Community Mixed Use (CMU) zone. They may also be permitted in a Planned Unit Development (PUD).

- B. Manufactured and Mobile Home Parks - Approval Procedure.
 - 1. An applicant seeking to develop a manufactured or mobile home park as a conditional use in the CR and CMU zone shall apply for a conditional use permit in accordance with the requirements set forth in Section 17.13.040 of this Title. Prior to, or simultaneously with the submittal of an application for a conditional use permit, the applicant shall submit a manufactured or mobile home park development plan for the subject property for review and approval.

 - 2. An applicant seeking to develop a manufactured or mobile home park as part of a Planned Unit Development shall comply with the procedures and standards set forth in Chapter 17.17 of this Title.

 - 3. Prior to, or simultaneously with an application for a conditional use permit, or Planned Unit Development approval, the applicant shall submit an application for subdivision in accordance with the requirements of Chapter 17.15 of this Title. A manufactured or mobile home park shall be subdivided for the purpose of dedication of adjacent public streets, internal public streets and ways, parks, open space or recreation areas, easements and other public facilities.

 - 4. Development of a manufactured or mobile home park is permitted only in accordance

with a manufactured or mobile home park development plan and subdivision final plat prepared and approved in accordance with the requirements of this Title. The owners and their successors, heirs, or assigns shall be bound by the approved manufactured or mobile home park development plan and the subdivision final plat, including any amendments thereto approved by the City Council as provided in this Title.

C. General Requirements Applicable to Manufactured and Mobile Home Parks.

1. In order to provide uniform administrative procedures and quality development standards, manufactured and mobile home parks shall conform to all provisions of this Title except as such provisions are specifically altered in the approved manufactured or mobile home park development plan.
2. No development within a manufactured or mobile home park shall occur until a subdivision final plat for the portion to be developed is approved and recorded as provided in Chapter 17.15.
3. Vesting of property rights for a manufactured or mobile home park development accrue only for that portion of the property granted subdivision final plat approval.
4. All public utility distribution lines shall be placed underground.
5. The minimum number of acres which may constitute a manufactured or mobile home park development shall be five (5) acres.
6. Planning clearances, building and occupancy permits for manufactured or mobile homes in a manufactured or mobile home park development shall comply with the following requirements:
 - a. It shall be unlawful to erect, move or place any manufactured or mobile home, or other structure on or onto any site space, lot or tract in a manufactured or mobile home park without first obtaining a planning clearance and a building permit.
 - b. No planning clearance for building permit for the installation of a manufactured or mobile home shall be issued unless the manufactured home meets the requirements set forth in Chapter 17.23.

17.25.020 DENSITY, DIMENSIONAL AND SPACING STANDARDS FOR

MANUFACTURED OR MOBILE HOME PARKS.

- A. The minimum area for a manufactured or mobile home space shall be four thousand (4,000) square feet.
- B. The minimum lot length shall be eighty (80) feet.
- C. The minimum lot width shall be fifty (50) feet.
- D. The maximum building height shall be thirty-five (35) feet.
- E. The distance between any building or manufactured or mobile home from a property line of the manufactured or mobile home park shall be twenty (20) feet.
- F. The front setback of a manufactured or mobile home shall be fifteen (15) feet from the back of the curb, provided however, that in order to encourage the enclosed storage of parked vehicles, the setback from the back of curb to a garage shall be either five (5) feet or fifteen (15) feet or greater.
- G. Side spacing shall provide for a distance of twenty (20) feet between manufactured or mobile homes.
- H. Rear spacing shall provide for a distance of twenty (20) feet between units when units are side to end, and a distance of ten (10) feet between units when units are end to end.
- I. There shall be a minimum setback of twenty (20) feet between any service facility or park permanent building and a manufactured or mobile home.
- J. Accessory buildings and structures shall be constructed in accordance with the city's building codes adopted in Title 15 of the Fruita Municipal Code. Accessory buildings and structures shall include steps, attached or detached patios that are open on three (3) sides, attached or detached decks that are open on three (3) sides, attached or detached storage units, attached or detached garages, and attached or detached carports. Accessory buildings or structures may be located adjacent to a manufactured or mobile home space line provided, however, that a minimum of six (6) feet of separation is provided between a garage and any other structure on an adjoining space. Any other building or structure shall provide a minimum of ten (10) feet between it and any structure on an adjoining space.
- K. The limits of each manufactured or mobile home space shall be clearly marked on the ground by

permanent monuments set pursuant to Section 38-51-101, C.R.S.

17.25.030 MANUFACTURED AND MOBILE HOME PARK DESIGN STANDARDS.

A. Street Design Standards.

1. All interior streets in a manufactured or mobile home park shall be privately owned and maintained by the park owner, unless otherwise permitted by the City Council, and shall be a minimum width of twenty-two (22) feet from back of curb to back of curb, including the width of gutter pans.
2. Primary through streets shall be thirty-four (34) feet from back of curb to back of curb with a four (4) foot wide detached sidewalk on one side being located six (6) feet from the back of curb.

B. Parking.

1. Every manufactured or mobile home space shall have two (2) off-street parking spaces adjacent to the manufactured or mobile home. There shall be one (1) additional parking space for each manufactured or mobile home space within one hundred (100) feet for the use of occupants and guests.
2. Off-Street Vehicle Parking for Recreation Facilities. Off-street vehicle parking shall be provided for recreation facilities located within a manufactured or mobile home park. One (1) space per two hundred fifty (250) square feet of gross floor area, plus one (1) space per employee at the maximum shift shall be provided for enclosed recreation facilities, or twenty (20) spaces are to be provided for every diamond or athletic field, or one (1) space for every four (4) spectator seats, whichever is greater. (One seat is equal to two (2) feet of bench seating length.) Handicapped parking spaces shall be provided in conformance with the Americans with Disabilities Act, as may be amended from time to time.

- #### **C. Pedestrian Circulation.** The developer shall provide for a system of pedestrian circulation within the development. The system shall connect with existing sidewalks, if any are adjacent to the property. The system shall be designed to link residential units with recreation facilities, school

bus stops and existing sidewalks in the neighborhoods. Detached sidewalks within the manufactured or mobile home park shall be a minimum of four (4) feet in width.

- D. Street and Sidewalk Lighting. All streets and sidewalks shall be lighted in accordance with the city's lighting standards.
- E. Access and Circulation. A manufactured or mobile home park development shall have two (2) means of access to public streets at the perimeter of the site. Internal circulation may be provided by public or private streets, driveways and alleys. Each manufactured or mobile home space shall be provided access to the internal circulation system. No manufactured or mobile home space shall have direct access to a public street on the perimeter of the site.
- F. Sidewalk Between Street and Manufactured or Mobile Home. Concrete sidewalks shall be provided between the manufactured or mobile home and the adjacent street sidewalk; except, the paved parking area may satisfy this requirement provided a sidewalk is provided from the parking area to the manufactured or mobile home.
- G. Traffic Control.
1. Pursuant to Section 42-4-1102, C.R.S., the city elects to impose and enforce stop sign regulations, speed limits and parking restrictions posted in accordance with the Manual of Uniform Traffic Control Devices upon all streets which are privately maintained in manufactured or mobile home parks. The owner of the manufactured or mobile home park shall provide such signs as may be required by the City Engineer, and agrees to erect and maintain such signs in conformity with the Model Traffic Code and other applicable regulations.
 2. The stop sign placement, speed limits and parking restrictions shall be determined by the City Engineer, but shall be consistent with the provisions of Sections 42-4-1101 to 42-4-1104 *et. al.*, C.R.S., Section 42-4-1204, C.R.S. and Section 42-4-1208, C.R.S.
 3. There shall be posted at each entrance to any manufactured or mobile home park a sign giving notice of such enforcement in the following text: "NOTICE: Stop sign, speed limits and parking restrictions enforced by the city."
 4. When all signs are in place, stop sign, speed limits and parking regulations shall be enforced and violations thereof punished in accordance with the provisions of the Model Traffic Code, as adopted by the City of Fruita.

H. Utility Design Requirements.

1. All public utilities shall be installed in accordance with the applicable city standards.
2. A manufactured or mobile home park may have multiple master meters for water service.
3. Each manufactured or mobile home space shall have its own meter for water, electrical, and natural gas service.

I. Manufactured or Mobile Home Space Landscaping. The developer shall provide front and rear manufactured or mobile home space landscaping for each space, including but not limited to, grass, a non-potable irrigation system, and trees and shrubs. The developer shall provide a graphical representation of “typical” manufactured or mobile home space landscaping for each of the manufactured or mobile home designs to be located in the manufactured or mobile home park, for review and approval by the Planning Commission and City Council.

J. Manufactured or Mobile Home Park Perimeter and Common Space Landscaping. The developer shall landscape the perimeter and common areas of the manufactured or mobile home park in accordance with landscaping plans submitted to the Planning Commission and City Council for review and approval.

K. Outdoor Living Area.

1. No less than eight (8) percent of the gross site area shall be reserved for and devoted to improved recreation areas and facilities provided in a location or locations convenient to all manufactured or mobile home spaces.
2. An outdoor living area shall be provided on each space equal to at least ten (10) percent of its area, provided that in no case shall such area be less than three hundred (300) square feet or required to be more than five hundred (500) square feet. The minimum horizontal dimension of such area shall be not less than fifteen (15) feet.
3. Such outdoor living area shall be properly drained, located for convenience and optimum use and walled, fenced or landscaped to provide reasonable privacy.

L. Tenant Storage.

1. A separate uniform tenant storage structure may be provided for each space, located on

each space.

2. There shall be a minimum of two hundred twenty-four (224) cubic feet of storage area provided for each manufactured or mobile home space.
3. Design and location of tenant storage shall enhance the appearance of the park and the exterior siding of the structure shall have the same appearance as materials commonly used on residential dwellings.

M. Street Names, Addressing, Mail Delivery. All proposed street names shall be indicated on the development plan and submitted by the owner for approval. Each space shall be numerically designated for address and mail purposes and signs furnished and installed by the manufactured or mobile home park owner. Cluster postal boxes will be provided at a central location(s) convenient to the residents. No individual street-side mailboxes are permitted unless otherwise approved by the city.

N. Solid Waste Disposal.

1. The owner of the manufactured or mobile home park shall be responsible for the promulgation and enforcement of rules and regulations governing solid waste storage and handling that meet or exceed state or federal regulations.
2. The owner shall provide containers for the storage of solid wastes awaiting collection for each manufactured or mobile home space. Containers are to be sized to completely contain all solid wastes that are generated on the premises. Containers are to be flytight, watertight, and rodent proof and are to be kept off the street, curb, sidewalk and all other public ways, and concealed from public view, except on collection day.

17.25.040 MISCELLANEOUS REQUIREMENTS FOR MANUFACTURED OR MOBILE HOME PARKS.

A. Residents Council. A manufactured or mobile home park development shall establish a residents council. This residents council shall be established from residents living within the community and from different sections of the community. The purpose of the residents council shall be to foster communication between residents and park management. The council shall serve as a method for residents of a manufactured or mobile home park development to direct questions and concerns to management and to assist in the social programs of the community. The residents council shall meet with management on a regular basis as established by the council, but no less than quarterly. The meeting shall be noticed and be open to all residents of

the park. Members of the residents council shall be subject to popular election by residents of the park.

- B. Single Ownership of a Manufactured or Mobile Home Park Required. A manufactured or mobile home park development may not be converted to another use other than such uses provided for in the approved development plan without the approval of the city and meeting the appropriate lot size, lot width, setback and other requirements for the new use.
 - 1. The land within a manufactured or mobile home park development shall remain in a unified ownership and the individual ownership of lots or spaces or portions of lots or spaces shall not be transferred.
 - 2. No dwelling unit other than a manufactured or mobile home shall be located within a manufactured or mobile home park development.
- C. Conformance of Manufactured or Mobile Home Park to State Law. A manufactured or mobile home park and its operation shall conform to the provisions of the Mobile Home Park Act, Sections 38-12-201, *et. seq.*, C.R.S., as amended from time to time.
- D. Business License. The owner or operator of a manufactured or mobile home park shall obtain and maintain a business license as provided in Title 5 of the Fruita Municipal Code.

17.25.050 MANUFACTURED OR MOBILE HOME PARK APPLICATION SUBMITTAL REQUIREMENTS.

- A. The applicant shall submit the required information on forms and in numbers as determined by the Community Development Department. The application shall be distributed to appropriate staff and others for review and comment. .
- B. Manufactured and Mobile Home Park Review and Approval Criteria. In addition to the criteria set forth for conditional use permits (Section 17.13.040) or Planned Unit Developments (Chapter 17.17), the following criteria shall be considered by the Planning Commission and City Council in the review of manufactured and mobile home park development plan applications:
 - 1. Whether the application is in compliance with the requirements of this Chapter 17.25;
 - 2. Whether the proposed park is compatible with the surrounding land uses;
 - 3. Whether the subject land is suitable for the intended use and is compatible with the

natural environment; and

4. Whether the manufactured or mobile home park is compatible with the City of Fruita's Master Plan and related plans and documents and complies with all provisions of this Title 17.

17.25.060 MANUFACTURED HOUSING SUBDIVISIONS; GENERAL PROVISIONS.

- A. Description. This is a low density residential use intended primarily for single family uses on individual lots within a subdivision, consisting of manufactured homes. Manufactured housing subdivisions may be allowed as a conditional use within the CR and CMU zones. They may also be permitted in a Planned Unit Development (PUD) Zone District.
- B. Manufactured Housing Subdivision Approval Procedure.
 1. Prior to, or simultaneously with the application for a conditional use permit pursuant to Section 17.13.040 or Planned Unit Development approval pursuant to Chapter 17.17, the applicant shall submit a manufactured housing subdivision development plan for the property for review and approval.
 2. Prior to, or simultaneously with the application for development plan approval, the applicant shall submit a subdivision application for the property for review and approval as provided in Chapter 17.15 of this Title. Development of a manufactured housing subdivision shall be subject to review and approval through the sketch plan, preliminary plan, and final plat process in compliance with all of the standards contained in this Title 17. Public hearings on these matters may be combined or occur separately.
 3. A manufactured housing development shall be subdivided for the purpose of creation of the residential lots, dedication of adjacent public streets, internal public streets and ways, utility and other easements, parks, trails, open space, and other public facilities, and a subdivision final plat shall be recorded as provided in Chapter 17.15 of this Title.
 4. Development of a manufactured housing subdivision is permitted only in accordance with a development plan and final plat(s) prepared and approved in accordance with the provisions herein. The owners and their successors, heirs, or assigns shall be bound by

the approved development plan and final plat(s), including any amendments thereto, approved by the City Council, as provided herein.

C. General Requirements Applicable to Manufactured Housing Subdivisions.

1. In order to provide uniform administrative procedures and quality development standards, manufactured housing subdivisions shall conform to all provisions of this Title 17.
2. No development within a manufactured housing subdivision shall occur until a subdivision final plat for the portion to be developed is approved and recorded as provided in the city's subdivision regulations (Chapter 17.15 of this Title.)
3. A portion of the gross site area shall be dedicated to the city for public use as required by Chapter 17.19 or a fee in lieu of land shall be paid. Impact fees as required by Chapter 17.19 shall also be paid.
4. Vesting of property rights accrue only for that portion of the property granted final subdivision final plat approval.
5. All public utility distribution lines shall be placed underground.
6. The minimum number of acres, which may constitute a manufactured housing subdivision, shall be five (5) acres.
7. Planning clearances, building and occupancy permits for manufactured homes in a manufactured housing subdivision shall comply with the following requirements:
 - a. It shall be unlawful to erect, move or place any manufactured home, or other structure on or onto any site, lot or tract in a manufactured housing subdivision without first obtaining a planning clearance and a building permit.
 - b. No planning clearance for a building permit for the installation of a manufactured shall be issued unless the manufactured home meets the requirements set forth in Chapter 17.23.
8. All manufactured housing subdivision developers shall establish an association of homeowners for their development. The homeowners association shall establish bylaws governing the association which shall satisfy certain standards including, but not limited

to, the following:

- a. Mandatory participation in the homeowners association for the purpose of maintenance of all common areas, buffer areas and vacant lots within the subdivision and to enforce the declaration of restrictive covenants;
- b. Binding effect on all future property owners;
- c. Perpetual existence;
- d. Unaffected by any change in zoning or land use;
- e. Assurance of adequate maintenance;
- f. Enforceable by the city by appropriate legal action; and
- g. If maintenance or preservation of common areas or lots no longer comply with the provisions of the association's declaration, the city may take all necessary action to assure compliance and assess the association all costs incurred by the city for such purpose, including reasonable attorney fees. (See Section 17.29.050.)

Chapter 17.27
RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS

Sections:

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17.27.010 DEFINITIONS.

- A. As used in this Chapter, the following words and terms shall have the meaning ascribed to them in this Section:
1. Recreational Vehicle. The term “recreational vehicle” shall include recreational vehicles, travel trailers, and truck campers as defined in Chapter 17.03, and motorized homes, motor homes, recreational buses, and recreation vans.
 2. Recreational Vehicle Park. As defined in Chapter 17.03.
 3. Recreational Vehicle Resort. As defined in Chapter 17.03.
 4. Recreational Vehicle Space. As defined in Chapter 17.03. A recreational vehicle space may also accommodate a tent or other individual camping unit on a temporary basis.

5. Sanitary Facilities. Sanitary facilities mean toilets, urinals, lavatories, showers, utility sinks and drinking fountains, and the service buildings containing these facilities.
6. Sanitary Waste Station. Sanitary waste station means a facility used for removing and disposing of waste from self-contained recreational vehicle sewage holding tanks.
7. Service Building. Service building means a structure housing toilet, lavatory, bath, laundry, service sink, and other such sanitary facilities as may be required.

17.27.020 LOCATION. Recreational vehicle parks, recreational vehicle resorts and campgrounds are allowed as a conditional use in the Agricultural Residential (AR), Monument Preservation (MP), Tourist/Commercial Design (TC), General Commercial (GC), River Corridor (RC), and Community Services and Recreation (CSR) Zones, and shall comply with the regulations of the zone in which they are located as well as the provisions contained in this Chapter.

17.27.030 REVIEW PROCESS.

- A. The owner of all new recreational vehicle parks, resorts and campgrounds; or additional development in any existing recreational vehicle park, recreational resort or campground, must submit all plans and specifications in detail for such development in accordance with this Chapter, as part of its application for a new conditional use permit or amended permit pursuant to subsection 17.13.040, to the Community Development Department. No construction or development shall be commenced until the conditional use permit has been approved by the City Council, a development improvements agreement has been executed in accordance with Chapter 17.21, the performance guarantee has been delivered to the city, a planning clearance for a building permit has been granted, and a building permit has been issued.
- B. Development of recreational vehicle parks, recreational vehicle resorts and campgrounds shall be granted according to the conditional use review process set forth in Section 17.13.040.
- C. The Community Development Department Director and City Engineer shall inspect each new recreational vehicle park, recreational vehicle resort and campground, or space addition or construction in existing parks to determine compliance with the provisions of this Chapter and all other applicable ordinances, rules, regulations or codes. No occupancy shall be permitted or certificate of occupancy issued until said officials have made such determination in writing. Occupancy of the premises prior to issuance of a certificate of occupancy based on the above determination shall subject the violator to the penalties set forth in this Title 17. The above-named officials shall have authority to enter upon the premises for the purpose of such inspections at any reasonable time

without notice or approval of the owner or manager.

17.27.040 DEVELOPMENT STANDARDS.

- A. Site Conditions. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors or other adverse influences, and no portion subject to unpredictable flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- B. Soil and Groundcover. Exposed ground surfaces in all parts of the recreational vehicle park, resort or campground shall be paved, or covered with stone screening or other solid materials, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating objectionable dust.
- C. Drainage Requirements. A drainage plan in accordance with the provisions of subsection 17.15 of this Title shall be submitted as part of the conditional use permit application.

17.27.050 SIZE AND DENSITY OF PARKS AND RV SPACES.

- A. Park Size. The minimum gross area for a recreational vehicle park, recreation vehicle resort or campground is five (5) acres. The maximum gross area allowed is ten (10) acres.
- B. Density. The maximum density shall not exceed twelve (12) recreational vehicles per gross acre.
- C. Minimum Space Size. Each recreational vehicle space shall contain a minimum of one thousand five hundred (1,500) square feet and shall have a minimum width of twenty-five (25) feet.
- D. Parking Pads. Each space shall contain a vehicle parking pad of concrete or asphalt paving. Minimum length of the parking pad shall be thirty-five (35) feet. No part of a recreational vehicle or other unit placed on the space parking pad shall be closer than five (5) feet to the edge of the space.
- E. Required Separation Between RV Vehicles. Recreational vehicles shall be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings for purposes of this separation requirement shall be considered to be part of the recreational vehicle.
- F. Space Identification. Each space for the parking of a recreational vehicle shall be identified by numbers, a minimum of three (3) inches in height, posted in a conspicuous place at the front of the space.

17.27.060 STREETS AND PARKING.

- A. Interior Streets. All interior two-way streets shall be twenty-eight (28) feet minimum width and all interior one-way roads shall be twenty (20) feet minimum width. All streets shall be paved with asphalt and crowned to facilitate drainage. Streets shall be designed for the safe and convenient movement of vehicles.

- B. Parking Requirements. At least one and one-half (1½) off-street parking spaces shall be provided in the park, resort, or campground per recreational vehicle space. At least one (1) off-street parking space shall be provided at each space. No on-street parking will be permitted.

- C. Traffic Control.
 - 1. Pursuant to Section 42-4-1102, C.R.S., the City of Fruita elects to impose and enforce stop sign regulations, speed limits and parking restrictions posted in accordance with the Manual of Uniform Traffic Control Devices upon all streets which are privately maintained in recreational vehicle parks, resorts, and campgrounds. The owner of the park, resort or campground shall provide such signs as may be required by the City Engineer, and agrees to erect and maintain such signs in conformity with the Model Traffic Code and other regulations, as adopted by the city.

 - 2. The stop sign placement, speed limits and parking restrictions shall be determined by the City Engineer, but shall be consistent with the provisions of Sections 42-4-1101 to 42-4-1104, C.R.S., Section 42-4-1204, C.R.S., and Section 42-4-1208, C.R.S.

 - 3. There shall be posted at each entrance to any recreational vehicle park, resort or campground a sign giving notice of such enforcement in the following text: “NOTICE: Stop signs, speed limits and parking restrictions enforced by the City of Fruita.”

 - 4. When all signs are in place, stop signs, speed limits and parking regulations shall be enforced and violations thereof punished in accordance with the provisions of the Model Traffic Code, as adopted by the City of Fruita.

17.27.070 ENTRANCES AND EXITS.

- A. Locations and Access. No entrance or exit from a recreational vehicle park, resort or campground shall be permitted through a residential zone district nor require movement of traffic from the park, resort or campground through a residential zone district.

- B. Design of Access to Park, Resort or Campground.
1. Entrances and exits to recreational vehicle parks, resorts and campgrounds shall be designed for the safe and convenient movement of traffic into and out of the facility and to minimize marginal friction with free movement of traffic on adjacent streets.
 2. Each recreational vehicle park, resort and campground shall have a separate entrance and exit roadway, each of which shall not be less than twenty-eight (28) feet wide from flow line to flow line, shall be hard surfaced with asphalt or concrete, and shall connect to a dedicated public right-of-way not less than forty (40) feet in width.
- C. Access onto State Highways. Access onto state-controlled highways or streets will require a permit from the Colorado Department of Transportation (“C.D.O.T.”). The design of the access will be according to C.D.O.T. requirements.
- D. Distance from Intersection. Entrance driveways shall be located not closer than one hundred fifty (150) feet from the intersection of public streets.

17.27.080 ACCESSORY USES.

- A. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities and other uses and structures customarily incidental to operation of a recreational vehicle park, resort and campground are permitted as accessory uses to the park, resort or campground.
- B. In addition, stores, restaurants and other convenience establishments shall be permitted as accessory uses in recreational vehicle parks, resorts and campgrounds in zone districts where such uses are not allowed as principal uses, subject to the following restrictions:
1. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the park, resort or campground.
 2. Such establishments shall be restricted in their uses to occupants of the park, resort or campground.
 3. Such establishments shall present no visible evidence from any street outside the park, resort or campground of their commercial character which would attract customers other than occupants of the park, resort or campground.
 4. The structure housing such facilities shall not be located closer than one hundred (100) feet to any public street, but shall be accessible only from a street within the

park, resort or campground.

17.27.090 OPEN SPACE AND RECREATIONAL AREAS.

- A. A general area or areas amounting to not less than ten (10) percent of the gross area of any recreational vehicle park, resort, and campground, excluding any area dedicated as public right-of-way, shall be provided for pocket park, recreation and open space use.
- B. Such areas shall not include any area designated as a recreational vehicle space, storage area, required yard, service building or sanitary facility or waste station area.
- C. Recreational facilities shall be installed by the owner, at its sole cost, in the ten (10) percent requirement for parks or open space, as approved by the city.

17.27.100 BUFFERING; SETBACKS, SCREENING AND LANDSCAPING.

- A. Yards and Setbacks. Each recreational vehicle park, resort and campground shall set aside along the perimeter of the facility the following areas which shall be landscaped and used for no other purpose:
 - 1. Minimum front setback. Twenty-five (25) feet except when the recreational vehicle park, resort or campground fronts on a State highway; then the minimum shall be fifty (50) feet.
 - 2. Minimum side setback. When abutting residential zone districts, the side setback shall be fifty (50) feet; when abutting a dedicated public right-of-way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.
 - 3. Minimum rear setback. If the rear yard abuts a dedicated public right-of-way, the minimum shall be twenty-five (25) feet. If the rear yard abuts any other zone district, the setback shall be fifteen (15) feet.

Summary of Yard Setbacks				
If yard abuts a:	Residential Zone	Other Zone	Public Right-of-Way	State Highway
Front yard	Not allowed	Not allowed	25'	50'
Side yard	50'	15'	25'	50'
Rear yard	50'	15'	25'	50'

- B. Landscaping. A landscaping plan prepared by a professional landscape architect or landscape designer illustrating the placement and type of trees and shrubs must be submitted as part of the park, resort or campground development plan. The design of the landscaping must mitigate the visual impact of the recreational vehicle park, resort or campground on the surrounding area. When possible, landscaping shall be irrigated with a non-potable water irrigation system.

- C. Boundary Fencing. Except for the front boundary, each recreational vehicle park, resort and campground shall be enclosed by a solid fence of wood or wall of concrete block or brick not less than eight (8) feet in height.

17.27.110 UTILITIES.

- A. All Utilities Underground. All public utilities within the recreational vehicle park, resort or campground shall be underground.

- B. Water Supply. The water supply for the recreational vehicle park, resort or campground shall be provided by a delivery system that is owned and operated by the Ute Water Conservancy District. The water system shall be connected by pipes to all service buildings and all recreational vehicle spaces. In addition to other provisions of this Title 17, the water distribution system within the park, resort or campground shall meet the following minimum standards:
 - 1. The water distribution system shall be designed, constructed and maintained in compliance with State Department of Public Health and Environment regulations and recommendations to provide a safe, potable and adequate supply of water.
 - 2. The distribution system shall not be connected to any non-potable water supply nor be subject to any backflow or back siphonage.
 - 3. The distribution system shall deliver water at a minimum pressure of at least twenty (20) pounds per square inch and a minimum flow of at least one gallon per minute (1 g.p.m.) at all outlets.
 - 4. The distribution system shall deliver a minimum volume of one hundred gallons per day (100 g.p.d.) per recreational vehicle space.
 - 5. Water service lines, riser pipes and valves shall be installed and protected from damage by freezing, ground movement, vehicles or other damage sources.
 - 6. The riser pipe at each recreational vehicle space shall be at least one-half (½) inch in diameter and shall extend at least four (4) inches vertically above the ground elevation. It shall be equipped with a one-half (½) inch valve outlet with a threaded male spigot for attaching a standard garden hose.

7. Tent camping spaces shall be provided with common use water faucets located no more than one hundred fifty (150) feet from any tent campsite.
 8. Drinking fountains, if provided, shall be approved angle jet type with adequate water pressure.
 9. Spillage, overflow, drainage or wastewater from faucets and drinking fountains shall be discharged to approved drains to prevent impoundment of water, creation of mud holes or other nuisance conditions.
 10. A water station for filling recreation vehicle water storage tanks shall be provided at a rate of one (1) station for every one hundred (100) spaces. These shall be located not less than fifty (50) feet from a sanitary station. The station shall be posted with signs of durable material, not less than two (2) square feet, which state: "POTABLE WATER – DO NOT USE TO FLUSH CAMPING VEHICLE WASTE TANKS." Such water stations shall consist of at least a three-quarter ($\frac{3}{4}$) inch pipe and valve outlet and shall be protected against the hazards of backflow and back siphonage by an approved vacuum breaker located downstream from the shutoff valve. The fill hose shall be suspended so that no part of the hose and its appurtenances will come into contact with the ground. A sign shall be posted at the entrance of the park, resort or campground indicating the provision of a sanitary station and water station.
- C. Irrigation System. A non-potable water irrigation system for recreation vehicle parks, resorts and campgrounds shall be required.
- D. Wastewater Disposal. Facilities shall be provided and properly maintained for the collection and disposal or treatment of wastewater.
1. When the city's wastewater collection system is available, all plumbing fixtures, building sewers and space sewers shall be connected thereto. If the city's wastewater system is not available, a private sewage collection and disposal facility meeting requirements of the State Water Quality Control Commission, the State Department of Public Health and Environment and Mesa County sewage disposal requirements shall be installed and all building sewers and campground sewers connected thereto.
 2. Solid and liquid wastes shall not be discharged or otherwise disposed of on the surface of the ground or into any well, cave, open ditch, stream, lake or reservoir.
- E. Wastewater Collection.
1. Wastewater collection lines shall be laid in trenches of sufficient depth to be free

of breakage from traffic, ground movement, agricultural activity or other sources of damage, and shall be separated from the water supply system by a horizontal distance of ten (10) feet and a vertical elevation of two (2) feet below water lines at crossing points unless pressure sewers are used.

2. The wastewater lines shall be constructed of approved materials with adequate vents, watertight joints and sufficient cleanouts. All wastewater lines shall have a minimum diameter of six (6) inches, except that a wastewater lateral which serves no more than twenty-five (25) individual wastewater connections for individual recreational vehicle spaces or no more than five (5) toilet connections may be four (4) inches in diameter.
3. Wastewater lines shall be installed at a grade of at least one-eighth (1/8) inch per foot to ensure a velocity of two (2) feet per second when flowing full. Horizontal drainage lines connecting with other horizontal drainage lines shall enter through forty-five (45) degree “y” branches or other combinations of equivalent sweep.
4. Cleanouts or manholes shall be provided at the upper end of each main wastewater line, at intersections of two (2) or more wastewater lines, changes in grade or alignment of more than forty-five (45) degrees, and at intervals of not more than four hundred (400) feet.
5. Individual wastewater connections shall meet the following requirements: A four (4) inch inside diameter wastewater lateral and riser pipe with the surrounding ground graded to drain from the rim of the riser pipe. The wastewater lateral shall be properly trapped and vented if recreation vehicles without individually trapped and vented plumbing fixtures are accommodated.
6. Dependent recreational vehicles with a drain hose less than three (3) inches in diameter shall be connected with reducers and a screw or clamp-type fittings.
7. Drain outlets from independent recreational vehicles shall be capped or connected with a durable, readily cleanable, nonabsorbent, corrosion-resistant, drain hose having an inside diameter of not less than three (3) inches. The wastewater service connection shall be installed and maintained with a grade not less than one-quarter (1/4) inch per foot.
8. When the recreational vehicle space is not occupied, the sewer riser pipe shall be adequately covered.
9. A flushing sink or other means of disposal shall be provided for disposal of liquid wastes from dependent recreational vehicles, unless a sanitary waste station is provided and is conveniently located. The flushing sink shall be easily accessible and located at a distance of not more than three hundred (300) feet from any

recreational vehicle space. The sinks shall not be located in a room containing toilet, lavatory or bathing facilities, and toilets shall not be used for disposal of liquid wastes. Common-use faucets or hydrants and lavatories in service buildings shall not be used for cleaning fish and food, and for washing dishes, utensils, clothing or other articles of household use.

10. A sanitary waste station shall be provided for each one hundred (100) recreational vehicle spaces or part thereof not equipped with individual wastewater connections. Unless other approved means are used, the sanitary station shall be designed and constructed to include the following:
 - a. Easy ingress and egress from a service road for recreational vehicles and located not less than fifty (50) feet from a recreational vehicle space.
 - b. Connection to the wastewater system by a trapped four (4) inch wastewater riser pipe and vented not more than ten (10) feet downstream from the trap by a four (4) inch vent, adequately supported and extending at least eight (8) feet above the ground surface.
 - c. The wastewater inlet surrounded by a curbed concrete apron or trough of at least three (3) feet by three (3) feet, sloped to the inlet, and provided with a suitable hinged cover milled to fit tight.
 - d. A means for flushing the immediate area and a recreational vehicle holding tank shall be provided at each sanitary waste station. It shall consist of a properly supported water riser pipe, terminating two (2) feet above the ground with a three-fourth ($\frac{3}{4}$) inch valved outlet which shall be protected against back siphonage and backflow by an approved vacuum breaker installation located downstream from the shutoff valve.
 - e. A sign, constructed of durable material and not less than two (2) feet square, posted adjacent to the water flushing outlet and inscribed with the warning: "UNSAFE WATER FACILITY."
11. The plumbing shall be installed according to the most recent edition of the plumbing code as adopted by the city pursuant to Title 15 of the Fruita Municipal Code.

F. Electricity and Natural Gas.

1. An electric outlet approved by an electric utility shall be provided for each recreational vehicle space. The installation shall comply with all state and local electrical codes. Such electrical outlets shall be weatherproof.

2. Street and yard lights shall be provided in such number and intensity as to ensure safe movement of vehicles and pedestrians at night. A light shall be located at each outside entrance of the service buildings, which shall be kept lighted during hours of darkness.
 3. Where natural gas is provided, the installation shall comply with all applicable state and city building codes adopted in Title 15 of the Fruita Municipal Code.
- G. Utility Plans. Plans for water, wastewater, electricity and natural gas systems along with letters of approval from the appropriate utility providers must be submitted to the Community Development Department for approval.

17.27.120 REFUSE DISPOSAL.

- A. The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents, wildlife or other nuisance conditions.
- B. Durable, watertight, easily cleanable refuse containers, sufficient to contain all the refuse, shall be provided at each service building and sanitary waste station, or at a central storage area readily accessible and located not more than three hundred (300) feet from any recreational vehicle space. Refuse containers shall be provided at the rate of eight (8) cubic feet (60 gallons) for each five (5) recreational vehicle spaces and tent sites. Individual trash cans at each recreational vehicle space may be provided. All containers for refuse shall be covered with close-fitting, fly tight covers.
- C. Refuse shall be collected and removed from the premises as often as necessary, but not less than once weekly, and disposed of at a lawful disposal site.
- D. No burning of refuse will be permitted in a recreational vehicle park, resort or campground.

17.27.130 INSECT AND RODENT CONTROL.

Insects and domestic rodents shall be controlled by elimination of breeding and harborage sources, proper sanitary practices, extermination, vermin proofing of buildings and other approved control methods.

17.27.140 FIRE PREVENTION AND PROTECTION.

- A. All recreational vehicle parks, resorts and campgrounds shall comply with the current fire code of the Lower Valley First Protection District.
- B. Hand fire extinguishers of a type approved by the Lower Valley Fire Protection District

shall be maintained in effective working order and located in convenient places in the ratio of one (1) to eight (8) recreation vehicle spaces. The location of fire extinguishers must be approved by the Fire Chief of the Lower Valley Fire Protection District.

- C. No outdoor fires will be allowed except in grills, ovens, stoves or provided fire boxes. Provided boxes must be approved by the Lower Valley Fire Protection District. No open fires are allowed.
- D. Fire hydrants shall be located so that every space within the park, resort or campground can be reached with three hundred (300) feet of hose.

17.27.150 SANITARY FACILITIES.

- A. Sanitary facilities shall be provided and installed in accordance with the latest editions of applicable building codes adopted in Title 15 of the Fruita Municipal Code.
- B. Required toilet, lavatory and bathing facilities shall be provided in the following minimum numbers:

Recreational vehicle spaces or campsites	Toilets		Urinals	Lavatories		Showers	
	M	F	M	M	F	M	F
15	1	1	1	1	1	1	1
16 - 30	1	2	1	2	2	1	1
31 - 45	2	2	1	3	3	1	1
46 - 60	2	3	2	3	3	2	2
61 - 80	3	4	2	4	4	2	2
81 - 100	3	4	2	4	4	3	3
101 - 120	4	5	3	5	5	4	4

M = Male
F = Female

- C. At least one (1) toilet and shower facility shall be provided to accommodate disabled persons.
- D. No portable toilets will be allowed in recreational vehicle parks, resorts and campgrounds.

17.27.160 SERVICE BUILDINGS.

- A. Service buildings shall be constructed of easily cleanable, nonabsorbent materials, maintained in good repair and in a clean and sanitary condition. They shall be conveniently located at a distance of not less than ten (10) feet or more than four hundred (400) feet from any dependent recreational vehicle space or persons served in a recreational area.
- B. Separate rooms containing required plumbing fixtures shall be provided for each sex and clearly marked “men” and “women.” If located in the same building, they shall be separated by a solid, sound-resistant wall extending from floor to ceiling. The entrances shall be so designed so that the plumbing fixtures are not visible from the outside. A landing shall be provided beyond each exterior door opening and shall have a width and length not less than the door opening.
- C. The floors of service buildings shall have a smooth, impermeable and easily cleaned surface, sloped to drain. Floor drains, properly trapped, shall be provided in all shower baths and shower rooms to remove wastewater and to facilitate cleaning. The walls and ceilings of such buildings shall be finished, and the walls shall have a smooth, nonabsorbent, easily cleanable surface extending to a height of four (4) feet in toilet rooms and six (6) feet in shower rooms.
- D. Every service building shall have a minimum ceiling height of seven and one-half (7 ½) feet. In rooms with sloping ceilings, the required ceiling height shall be provided in at least fifty (50) percent of the rooms, and no portion of any room having a ceiling height of less than five (5) feet shall be considered as contributing to the minimum required areas.
- E. Every service building shall have at least one (1) window with a direct and unobstructed opening to the outside for natural light and ventilation, unless other approved means of light and ventilation to the outside air are provided.
- F. When necessary for exclusion of flies, mosquitoes and other insects, all exterior openings of service buildings shall be protected with fly screening of not less than sixteen (16) mesh per one (1) square inch, unless other approved protective devices are provided.
- G. Every service building shall be provided with at least one (1) ceiling-type light fixture, at least one (1) separate double convenience outlet adjacent to the lavatories, and a light fixture at the outside entrance of the service building. All lights shall have wall switches; no pull cords shall be allowed.
- H. Illumination levels of at least thirty (30) footcandles shall be maintained at lavatory mirrors and laundry room work areas, and at least five (5) footcandles shall be maintained for general seeing tasks and at the service building entrance area.

- I. Service buildings shall be provided with approved heating facilities which are properly installed, maintained in a safe working condition and capable of maintaining a room temperature of sixty-eight (68) degrees Fahrenheit.
- J. Toilets and showers shall be separately installed to be individually accessible and to permit simultaneous use.
- K. Each toilet shall be individually partitioned with a door to ensure privacy. The compartment shall be at least thirty (30) inches in width with at least twenty-four (24) inches of clear space in front of a toilet. The dividing partitions shall be at least five (5) feet in height with not less than six (6) inches nor more than twelve (12) inches separating the partition bottom and the floor. Toilets shall be provided with open-front seats.
- L. Each shower shall be individually partitioned with a curtain, screen or door to afford privacy. Shower stalls shall not be less than thirty (30) inches by thirty (30) inches in area and shall be constructed to prevent water flow into the dressing room space. Shower floors shall be skid resistant or provided with disposable or with non-slip impervious mats. Wooden racks (dust boards) over shower floors are prohibited. Where impervious mats are used, they must be cleaned, dried and kept off the shower floor when not in use.
- M. Dressing room space, screened from view and equivalent to the size of the shower floor area, shall be provided adjacent to bathing facilities and shall be equipped with a bench and clothes hook.
- N. Hot and cold water under pressure shall be supplied to all required plumbing fixtures, except that cold water only shall be supplied to toilets. Tempered water may be delivered to showers and sinks to conserve heated water and heating equipment. The system shall be designed to prevent discharge of water in excess of one hundred twenty (120) degrees Fahrenheit at showerheads.
- O. Hot water heating facilities shall have the capacity to provide a minimum of three (3) gallons of hot water (one hundred degrees Fahrenheit [100EF] rise) per hour per each recreational vehicle space and campsite during times of peak demands.
- P. Required plumbing fixtures shall be maintained in good working order and in clean and sanitary condition. Every service room containing sanitary fixtures shall be provided with a wastebasket.
- Q. Toilets shall be provided with a toilet paper holder or dispenser and a supply of toilet paper and a covered receptacle, and lavatory areas shall be provided with clothes hooks, shelves and trash receptacles.

- R. Service building construction shall conform to applicable provisions of the building codes adopted by the city in Title 15 of the Fruita Municipal Code for making buildings and facilities accessible and useable by the physically disabled.

17.27.170 SAFETY STANDARDS.

- A. All electrical wiring, equipment and appurtenances shall be installed and maintained in accordance with provisions of the electrical code currently adopted by the State of Colorado.
- B. Liquid petroleum gas, fuel oil, gasoline and other flammable liquids shall be handled and used in a safe manner and shall not be stored inside or beneath any recreational vehicle or within five (5) feet of a door of a recreational vehicle.
- C. The grounds, buildings and related facilities shall be constructed, maintained and used in accordance with applicable local and State fire prevention regulations.
- D. Play equipment, when provided for children, shall be designed for safety, maintained in good repair, located in areas free from hazards, and be approved by the City Recreation Department.

17.27.180 MISCELLANEOUS REQUIREMENTS.

- A. L.P. tanks shall be limited to one hundred (100) pound size.
- B. Storage buildings, lean-tos, bins or other outside storage facilities shall not be allowed at recreational vehicle spaces.

17.27.190 PERMANENT OCCUPANCY PROHIBITED.

- A. No recreational vehicle or tent shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Continuous occupancy extending beyond thirty-one (31) days shall be presumed to be permanent occupancy.
- B. Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.

17.27.200 SITE PLAN REQUIREMENTS.

- A. Before any conditional use permit is issued approving construction and/or operation of any recreational vehicle park, resort or campground, a site plan and required documentation shall be submitted to and approved by the City Council.

- B. Where a recreational vehicle park, resort or campground development is proposed for development in a series of phases, a master plan for the development of the entire tract of land shall be submitted along with the detailed plans and specifications for the initial phase, as well as any subsequent phases.
- C. A proposed development improvements agreement in accordance with Chapter 17.21 shall be submitted with the site plan.

17.27.210 INSPECTIONS.

- A. The Community Development Department shall inspect each recreational vehicle park, resort and campground at least once annually to determine compliance with the provisions of this Chapter and all other applicable ordinances, rules, regulations or codes. city officials shall have the authority to enter upon the premises for the purpose of such inspections at any reasonable time without notice to the owner or manager.
- B. Whenever a city code enforcement officer, police officer or the Community Development Department Director finds that an emergency exists which requires immediate action to protect the public health, safety or welfare, he may, without notice or hearing, issue an order reciting the existence of the emergency and requiring that specified actions be taken to remedy the problem as he may deem necessary, including suspension of the conditional use permit. Any person to whom such order is directed shall comply therewith immediately, but upon the filing of an appeal with the Community Development Department, shall be afforded a hearing as soon as possible on such appeal before the City Council in accordance with Section 17.05.060.

17.27.220 REVOCATION OF LICENSE.

- A. When it appears to any police officer, the Lower Valley Fire Protection District Fire Chief, the Community Development Department Director or the health officers of Mesa County that any person granted a conditional use permit pursuant to this Chapter has violated or may have violated any of the provisions hereof or of the conditional use permit, a written notice shall be served on such permittee and/or the recreational vehicle park, resort or campground manager in person or by certified United States mail specifying the manner in which it is believed he or she has violated or may have violated this Chapter or the conditional use permit. Said notice shall require the owner and/or manager to appear before the City Council, and show cause why such conditional use permit should not be suspended or revoked.
- B. If the City Council finds from the evidence that violations of this Chapter or conditions contained in the conditional use permit have been committed, it shall so advise the owner or manager and may forthwith put said person on probation for thirty (30) days. If the violation is not corrected within such probationary period, the City Council may revoke the conditional use permit held by such person or continue the probation for such period

and on such conditions as it shall determine.

- C. It shall be unlawful for any person whose conditional use permit has been revoked or suspended to operate, continue to operate or offer to operate any recreational vehicle park, resort or campground after the date of such revocation or during the term of such suspension, as the case may be.

17.27.230 RESPONSIBILITIES OF MANAGEMENT.

- A. Enforcement of Regulations. The owner or operator of any recreational vehicle park, resort or campground shall arrange for the management and supervision of such facility so as to enforce or cause compliance with the provisions of this Chapter.
- B. Maintenance. The owner, operator or attendant of every recreational vehicle park, resort or campground shall assume full responsibility for maintaining in good repair and clean condition all facilities of the recreational vehicle park, resort or campground as required herein.
- C. Business License. Every owner or operator of a recreational vehicle park, resort and campground shall obtain and continuously maintain in effect a business license pursuant to Title 5 of the Fruita Municipal Code.
- D. Office. In every recreational vehicle park, resort and campground there shall be a designated office building in which shall be located the office of the person in charge of said facility. A copy of all required city and State licenses and permits shall at all times be kept in said office.
- E. Management Duties. It shall be the duty of the attendant or person in charge, together with the owner or operator, to:
 - 1. Keep at all times a register of all tenants (which shall be open at all times to inspections by state, county and federal officials and City of Fruita officials showing for all tenants:
 - a. Name of party;
 - b. Dates of entrance and departure;
 - c. License numbers of all recreational vehicles and towing vehicles or automobiles; and
 - d. States issuing such license.
 - 2. Maintain the park in a clean, orderly and sanitary condition at all times;

3. See that provisions of this Chapter are complied with and enforced and report promptly to the proper authorities any violations of law, which may come to his or her attention;
4. Report to local health authorities all persons known to the owner or manager to be infected with any communicable diseases.
5. Prohibit the use of any recreational vehicle by a greater number of occupants than that which it is designed to accommodate, and prohibit stays beyond thirty-one (31) days in any twelve (12) month period; and
6. Promptly report all violations of State, federal or municipal law that occur within the boundaries of the facility.

Chapter 17.29
PARKS, OPEN SPACES AND TRAILS

Sections:

17.29.010	Purpose
17.29.020	Public Site, Park and Open Space Criteria
17.29.030	Parks, Open Spaces and Trails Requirements
17.29.040	General Provisions
17.29.050	Maintenance of Private Parks, Recreation Areas and Open Spaces

17.29.010 PURPOSE. The purpose of this Chapter is to guide the planning and design of parks, trails, recreation facilities and open spaces and public sites, where such facilities are required to be provided, pursuant to Chapter 17.19, or where voluntarily provided, pursuant to Chapter 17.17, Planned Unit Developments or Chapter 17.08 Density Bonuses. Where a provision of this Chapter is preceded by the word “shall” or “must,” the provision is mandatory; absent the word “shall” or “must,” the provision is a guideline. However, the city decision-making body may invoke guidelines as requirements where the applicant has requested approval of a Density Bonus under Chapter 17.08, Planned Unit Development approval under Chapter 17.17, or where he or she has requested one or more adjustments pursuant to Chapter 17.11 and/or other provisions of this Title. The intent of this Chapter is to implement the city’s Master Plan by providing-for a comprehensive, integrated network of parks, trails, recreation facilities and open spaces to be developed and preserved as the community grows.

17.29.020 PUBLIC SITE, PARK AND OPEN SPACES CRITERIA.

- A. Public sites, parks, open spaces and trails include:
 - 1. Areas within the community designated for the common use of the residents of an individual development and/or members of the community at large for active or passive recreation activities including trails;
 - 2. Areas designated for preservation and protection of environmental resources including: floodplains, natural drainageways, and wetland areas;
 - 3. Areas impacted by subsidence;

4. Areas designated for agricultural preservation; and
 5. Areas of archeological and historic significance.
- B. Required public sites, parks, open spaces and trails shall not include the following:
1. Required setback areas around oil and gas production facilities;
 2. Disconnected remnants of land created by the division of tracts into lots or parcels that do not qualify as functional parkland or open spaces, do not preserve environmental, archeological and historic resources, or do not provide valuable trail connections or open spaces amenities, unless otherwise approved by the City Council;
 3. Private yards; or
 4. Lawns and landscape strips and medians within the street rights-of-way.

17.29.030 PARKS ,OPEN SPACES AND TRAILS REQUIREMENTS.

The following are requirements for parks, open spaces and trails for residential developments:

- A. As part of the dedication requirement set forth in Section 17.19.090, residential developments shall provide at least three quarters (3/4) of an acre of land for a public site, park, open spaces and/or trail for each two hundred and thirty (230) residents, based on the schedule in Section 17.19.090. For residential developments with less than 230 residents, public site, park land, open spaces and/or trails may be provided or a fee in lieu of this dedication requirement may be paid as determined by the city decision making body through the land development review process. The public site, park, open spaces and/or trail shall be designed by a licensed landscape architect. Improvements to the public site, park, open spaces and/or trail are required unless the land provided is a natural open spaces area where improvements would not be appropriate. Improvements include, at a minimum, live ground cover, trees, irrigation system plus one (1) of the following: playground equipment, contemplative garden or other active or passive recreation opportunities. If the land is for a trail, pavement and groundcover will be required, at a minimum. The improvements can offset; otherwise, required park, open spaces and trails fees.
- B. Provision of parks and open spaces land may be waived upon City Council approval, if the development is located within one-quarter (1/4) mile of a city maintained park at least two (2) acres

in size or larger. The one-quarter (1/4) mile is measured by walking distance, not as the crow flies.

- C. Portions of required storm drainage facilities may function as open spaces, or an area for active recreation, trail corridors or habitat enhancement areas if they are designed appropriately. Up to seventy-five (75) percent of the land area used for such facilities may be credited toward the total dedication requirements set forth in Section 17.19.090, and will be considered for credit on a case-by-case basis by the City Council. Not more than fifty (50) percent of the public site, park or open spaces requirements for a development may comprise storm drainage facilities.
- D. A minimum of eighty (80) percent of land dedicated shall have a slope of ten (10) percent or less and shall lend itself to utilization for municipal and public recreation purposes, including but not limited to the following: playing fields, playgrounds, tennis courts, picnic sites, trails and boating areas. Provided, however, up to a fifty (50) percent credit towards the dedication requirement may be granted by the City Council for land having slopes of greater than ten (10) percent.
- E. Blanket public access easements for use by the public over and across private homeowners' association parks, trails and open spaces shall be required when used to satisfy the public open spaces requirements pursuant to Chapter 17.19.
- F. In all cases, land and improvements and/or a fee in lieu of land and improvements will be required to meet the requirements set forth in Section 17.19.090.

17.29.040 GENERAL PROVISIONS.

- A. Public Sites, Parks and Open Spaces to Serve as Neighborhood Focus. Open spaces, such as the city's drainage ways and parks, shall be used to organize and focus lot, block and circulation patterns and to enhance surrounding development. Street, block, lot and building patterns shall respond to the views, landscape and recreational opportunities provided by such parks, public sites and open spaces areas.
- B. Public Access. Areas designated as public sites, parks and open spaces shall be both visibly and physically accessible to the community. Public access shall be provided to all public parks, open spaces, natural and developed, and trails directly from the public street and trail system. Public site, park and open spaces areas shall be bounded along at least ten (10) percent of the perimeter by a street, except for natural open spaces areas if authorized by the City Council.
- C. Buffering. Appropriate buffering and setbacks shall be used between environmental resources and

proposed development to ensure that the proposed development does not degrade the existing habitat or interfere with other uses. At a minimum, the following buffer standards apply:

Canals – fifty (50) feet on both sides of the canal as measured from the centerline of the canal.

Washes and creeks and wetlands – one hundred (100) feet

Colorado River – three hundred (300) feet

- D. Park and Open Spaces Uses. Uses designated within public and private parks and open spaces shall be appropriate to the context and character of the site and the intensity of the proposed development.
- E. Ownership and Maintenance of Public Sites, Parks, Open Spaces and Trails. Ownership and maintenance of public sites, parks, open spaces and trails shall be determined by the City Council on a case-by-case basis through the development review process.

17.29.050 MAINTENANCE OF PRIVATE PARKS, RECREATION AREAS AND OPEN SPACES.

- A. Any homeowners' association or other organization established to own and maintain private parks, recreation areas or common open spaces shall maintain such lands and improvements in a reasonable order and condition in accordance with the developer's application, the development plan, as approved, and any conditions of approval, the applicable declaration of covenants.
- B. In the event a homeowners' association or other organization established to own and maintain private parks, recreation areas and common open spaces, or any successor organization, fails at any time after approval of the development by the city to maintain the private parks, recreation areas or common open spaces in a reasonable order and condition, the Community Development Department may serve written notice upon such organization or upon the residents of the development setting forth the manner in which the organization has failed to maintain the private parks, recreation areas and common open spaces, as applicable, in a reasonable order and condition, and said notice shall include a demand that such deficiencies of maintenance be cured within thirty (30) days thereof and shall state the date and place of a hearing thereon before the City Council which shall be held within twenty-one (21) days of the notice. At such hearing, the City Council may modify the terms of the original notice as to deficiencies and may give an extension of

time within which they shall be cured.

If the deficiencies set forth in the original notice or in the modification thereof are not cured within said thirty (30) days, or any extension thereof, the City Council, in order to preserve the taxable values of the properties within the development, and to prevent the private park, recreation area or common open spaces from becoming a public nuisance, may enter upon said private park, recreation area or common open spaces and maintain the same for a period of one (1) year. Said entry and maintenance shall not vest in the public any right to use the private park, recreation area or common open spaces, except when the same is voluntarily dedicated to the public by the developer. Before the expiration of said year, the City Council, upon its own initiative or upon the written request of the organization previously responsible for the maintenance of the private park, recreation area or common open spaces, shall call a public hearing upon notice to such organization or to the residents of the development, at which hearing such organization or the residents of the development shall show cause why such maintenance by the city should not, at the election of the city, continue for a succeeding year.

If the City Council determines that such organization is ready and able to maintain the private park, recreation area or common open spaces in a reasonable condition, the city shall cease to maintain such area at the end of the one (1) year period. If the City Council determines that such organization is not ready and able to maintain said private park, recreation area or common open spaces in a reasonable condition, the city may, at its discretion, continue to maintain the private park, recreation area or common open spaces during the next succeeding year and, subject to a similar hearing and determination, in each year thereafter.

- C. The cost of the maintenance of a private park, recreation area, trail or common open spaces by the City of Fruita, including an administration fee equal to ten (10) percent of such cost, shall be paid by the owners of properties within the development that have a right of enjoyment of the private park, recreation area or common open spaces, and any unpaid assessments shall become a tax lien on said properties. The city shall file a notice of such lien in the office of the Mesa County Clerk and Recorder upon the properties affected by such lien within the development and shall certify such unpaid assessments to the Mesa County Board of County Commissioners and the Mesa County Treasurer for collection, enforcement and remittance in the manner provided by law for the collection, enforcement, and remittance of general property taxes.

Chapter 17.31
MINERAL EXTRACTION AND MINING OPERATIONS

Sections:

- 17.31.010 Purpose**
- 17.31.020 Procedure for Extraction and Rehabilitation Requests**
- 17.31.030 Operation and Rehabilitation Standards for all Mining Operations**
- 17.31.040 Revocation of Conditional Use Permit**

17.31.010 PURPOSE. The purpose of this Chapter is to establish reasonable and uniform limitations, safeguards, and controls for conservation of natural resources and for rehabilitation of mineral extraction lands. Gravel and other mineral extraction, washing, crushing, cement batch plants, asphalt plants, and processing activities should be located and conducted in sufficiently sized parcels where extraction and rehabilitation can be undertaken while still protecting the health, safety, and welfare of the area and the city. In cases where the location of the proposed mining use abuts other zoning or land uses, or structures, mineral excavation, extraction, processing and rehabilitation may be restricted in order to be compatible with and protect the adjoining uses.

17.31.020 PROCEDURE FOR EXTRACTION AND REHABILITATION REQUESTS.

The extraction of commercial mineral deposits with necessary accessory uses shall be allowed in the River Corridor (RC) zone, Monument Preservation (MP) zone, General Commercial (GC) zone, and the Limited Industrial Research and Development (LIRD) zone as a conditional use and in conformance with an approved excavation and rehabilitation plan. Any excavation plan being followed under previous regulations shall fulfill this requirement. A plan shall contain, in addition to those relevant requirements outlined for a conditional use application, the following requirements:

- A. A detailed description of the method of operation of extraction, processing and rehabilitation to be employed, including any necessary accessory uses; such as, but not limited to, crushers, washers, batch plants and asphalt plants;
- B. An extraction plan showing the areas to be mined, location of stockpile areas, location of structures, and general location of processing equipment, with accompanying time schedules, fencing if applicable, depth of deposit, estimated quantity of the deposit, and other pertinent factors;
- C. A detailed rehabilitation plan showing proposed rehabilitation with time schedule including, but not limited to, finish contours, grading, sloping, types, placement and amount of vegetation, reuse plans and any other proposed factors;
- D. Topography of the area with contour lines of sufficient detail to portray the direction and

rate of slope of the land covered in the application;

- E. Type, character, and amount of proposed vegetation;
- F. The operator's estimated cost at each of the following segments of the rehabilitation process, including, where applicable, backfilling, grading, reestablishing top soil, planting, re-vegetation management, and protection prior to vegetation establishment and administrative costs;
- G. A drainage report and drainage basin plan prepared by a registered engineer in the State of Colorado with consideration of natural drainage, drainage during excavation including erosion and sedimentation controls, drainage after rehabilitation, such that proposed excavation will have no adverse effects in excess of natural conditions. Where applicable, the report shall include a flood plain permit;
- H. A traffic impact analysis, which reviews road and safety conditions in the pit area and in the vicinity of the pit area. This shall include ingress/egress, parking and loading areas, on-site circulation, estimate of the number of trucks per day and the average and maximum number of trucks per day (ranges are acceptable). The analysis shall include the times and location of school bus stops in the vicinity of the haul route and mitigation measures, such as staggering hours of operation, to avoid conflicts between hauling and school children on the haul route; and
- I. Additional information as may be required by the Community Development Department.
- J. Upon approval, the excavation and rehabilitation plans shall be recorded with the County Clerk and Recorder. Any change in the approved excavation and rehabilitation plan shall be prohibited unless amended by approval of the City Council.

17.31.030 OPERATION AND REHABILITATION STANDARDS FOR ALL MINING OPERATIONS. Mining and necessary accessory uses shall be subject to the following conditions and to the approved excavation and rehabilitation plan:

- A. A permit to extract minerals issued by the Colorado Division of Minerals and Geology (DMG) in conformance with the Open Mining Land Recovery Act and other applicable state laws;
- B. Excavation within one hundred twenty-five (125) feet of an existing residence is not permitted unless by written agreement of the owners and occupants of the residence, and no excavation involving the use of rock crushers, washers, asphalt plant, cement batch plant and other similar equipment shall take place within two hundred fifty (250) feet of a residence;

- C. At a minimum, a one hundred (100) foot greenbelt setback will be provided from watercourses for the protection of valuable plant life, riparian areas and wildlife areas. Erosion and sedimentation controls will be practiced throughout the life of the pit including the maintenance of vegetative buffers, use of straw bales in drainage ways and mulching and reseeding exposed areas adjacent to the active mining area. Existing trees and ground cover along public street frontage and drainage ways shall be preserved, maintained and supplemented, if necessary, for the depth of the setback to protect against and reduce noise, dust and erosion;
- D. The operator shall submit a haul route plan to the Community Development Department and Department of Public Works Director and receive permission to use for haulage in public rights-of-way not designated for such haulage by reason of load limit, dust, right-of-way or pavement width or other relevant factors. The City Public Works Director may place reasonable restrictions on such right-of-way use. Alternative haul routes shall be developed where hauling impacts the health, safety, and welfare of the local area;
- E. Haulage roads within the premises shall be maintained in a reasonably dust free condition. Dust retardant measures may include the use of watering, application of magnesium chloride, oiling, or paving;
- F. Unless otherwise approved, the hours of operation shall be 6:00 a.m. to 7:00 p.m. normally; shorter hours of operation may be imposed in urbanized areas as part of the conditional use permit;
- G. In no event shall a slope of less than 2:1 be left for dry pits, or the slope of 3:1 for pits deeper than ten (10) feet. In a wet pit, in no event shall a slope be less than 2:1 except as provided herein;
- H. The floor of excavation pits, whether wet or dry, shall be left in a suitable condition;
- I. The operator shall not store, overburden, or excavate materials or construct dikes or levies in such a manner as to increase any drainage or flooding on property not owned by the operator or damage public facilities;
- J. Prior to starting excavation, where the operation is adjacent to subdivided and/or developed commercial, residential, or industrial property, fencing may be required to prevent the visibility of the mining operation, and buffering and screening may be required if deemed necessary by the City Council as part of the conditional use permit. The operator may be required to fence and/or buffer and screen the entire parcel or fence only areas of excavation as it proceeds. None of these fences shall be removed until rehabilitation has been completed;

- K. Where the operation is adjacent to subdivided property, and/or developed commercial or residential property, once mining has been completed, the site shall not be used as an area to stockpile mineral and/or gravel resources, unless otherwise permitted by the conditional use permit. The mining operator shall reclaim mined areas as rapidly as possible;
- L. Operations shall comply with noise, vibration, and other standards of Mesa County and the noise standards contained in Sections 25-12-101, *et. seq.*, C.R.S., as amended;
- M. All air emissions shall comply with standards established by the Colorado Department of Public Health and Environment and the Mesa County Health Department. An air emissions permit shall be obtained from these agencies prior to commencing the mining operation;
- N. All water uses and discharges shall conform to standards established by the State Water Quality Control Commission and the water laws of the State of Colorado;
- O. All slopes shall be stabilized and re-vegetated. Land shall be reformed to most closely resemble the natural contours of the land before mining commenced. Lakes created, as the result of mining in the river bottom, shall have undulating surfaces, shallow and deep areas, established wetlands, and natural riparian vegetation. Other areas shall be re-vegetated with plant material indigenous to the area;
- P. The re-vegetation plan must meet the standards of the Colorado State University Tri-River Extension Service;
- Q. After re-vegetation of the area, the area must be maintained for a period of three (3) years, or until all vegetation is firmly established in the reclamation area;
- R. A time limit for reclamation will be included in each conditional use permit. This time limit will be dependent upon the type of reclamation effort; and
- S. A development schedule shall be submitted describing the life span of the plan in months and years (ranges are acceptable) and, if applicable, the months and years per phase. Diligence in meeting this schedule is required. Extensions of time may be granted by the City Council with proper justification.
- T. Extensions of time in the development schedule may be granted by the City Council if a written request is submitted outlining the factors and reasons for the extension. New or changed conditions, if any, will be considered.
- U. If no material has been extracted within three (3) years of obtaining the conditional use permit for mineral extraction and a request for extension has not been received and

approved by the City Council, the conditional use permit will expire. A new application and extraction plan shall then be submitted and reviewed in the manner described in this Chapter.

- V. An extension request shall provide information concerning the factors and reasons for the request. The City Council will consider these factors and reasons as well as the extent conditions have changed in the area, if any, in granting extensions of the conditional use permit.

17.31.040 REVOCATION OF CONDITIONAL USE PERMIT. The City Council shall have the power after a public hearing to revoke the conditional use permit for violation of this Chapter or conditions imposed by the City Council pursuant to subsection 17.13.040. Upon at least ten (10) days notice to the owner and the operator, the City Council may hold a hearing to determine the nature and extent of an alleged violation, and shall have the power, upon a showing of good cause, to revoke the conditional use permit and to require that immediate reclamation measures be commenced.

Chapter 17.33
ANIMAL REGULATIONS

Sections:

- 17.33.010 Animals and Household Pets**
- 17.33.020 Number of Dogs and Cats Permitted**
- 17.33.030 Fruita Animal Control Restrictions by Zone District**

17.33.010 ANIMALS AND HOUSEHOLD PETS. Notwithstanding any other provision of the Fruita Municipal Code to the contrary, and with the exception of duly permitted zoos or circuses, no person shall own, possess, harbor, maintain or keep animals or pets that become a neighborhood nuisance because of noise, odor, or a threat to the health and safety of surrounding residences, and commercial and industrial establishments. A nuisance, for the purpose of this Section, shall be defined as a property for which the City receives three (3) or more animal complaints supported by competent evidence in a one (1) month period of time and which establishes a continuous neighborhood problem of noise, odor or a threat to safety.

17.33.020 NUMBER OF DOGS AND CATS PERMITTED. The total number of dogs and cats on a single parcel shall not exceed four (4). Puppies and kittens of up to three (3) months in age shall be allowed to exceed this number.

17.33.030 FRUITA ANIMAL CONTROL RESTRICTIONS BY ZONE DISTRICT. The following restrictions by zone apply to all animals. See Section 17.07.050(C) for allowed uses, such as horse boarding, kennels, animal containment facilities and veterinary clinics. Animal densities refer to any combination of a particular category which add up to the total number allowed in each zone; i.e. two (2) dogs and two (2) cats, or one (1) dog and three (3) cats, or four (4) dogs, etc. are allowed in the Community Residential Zone (See also Fruita Municipal Code Section 6.04.010, *et seq.*)

<u>ANIMAL</u>	<u>Agricultural Residential, Rural Residential and Rural Estate (AR, RR & RE)</u>	<u>Community Residential, Large Lot Residential, Community Residential, Downtown Mixed Use and South Fruita Residential (CR, LLR, CMU, DMU & SFR)</u>	<u>Tourist Commercial General Commercial and Limited Industrial and Research and Development (TC, GC & LIRD)</u>	<u>Monument Preservation and River Corridor (MP & RC)</u>
Cats/dogs	4/d.u. no limit on kittens & puppies up to 3 months old	4/d.u. .no limit on kittens & puppies up to 3 months old	4/d.u. no limit on kittens & puppies up to 3 months old	4/d.u. no limit on kittens & puppies up to 3 months old
Horses, cows, llamas, mules, buffalo, ostrich, emus	No limit except on parcels of land less than 10 acres, then 1/acre	Cond..Use Permit required then 1/acre	Cond. Use permit required except on parcels of 35 acres or more in which case no limit	No limit except on parcels of land less than 10 acres, then 1/acre
Goats, sheep, pigs, potbellied (miniature) pigs, miniature horses	No limit except on parcels of land less than 10 acres, then 8/acre	Cond. Use Permit required except on parcels of 35 acres or more in which case no limit	Cond. Use permit required except on parcels of 35 acres or more in which case no limit	No limit except on parcels of land less than 10 acres, then 8/acre
Chickens, ducks, turkeys, pigeons, small birds	No limit	Cond. Use Permit required except on parcels of 35 acres or more in which case no limit	Cond. Use. Permit required except on parcels of 35 acres or more in which case no limit	No limit.
Rabbits, chinchillas, small animals	No limit	4/lot except on parcels of 35 acres or more in which case no limit	4/lot except on parcels of 35 acres or more in which case no limit	No limit
Non-domestic exotic animals, birds, reptiles ¹	4/lot: must be kept indoors	4/lot: must be kept indoors	4/lot: must be kept indoors	4/lot: must be kept indoors
Bee keeping	No limit	Not allowed	Not allowed	No limit

Notwithstanding this section, a conditional use permit is required for dangerous, hazardous, or poisonous species, as determined by the Community Development Department Director and including, without limitation, mountain lions, wolves, monkeys and poisonous snakes

Chapter 17.35
SEXUALLY ORIENTED BUSINESSES

Sections:

- 17.35.010 Purpose and Description**
- 17.35.020 Definitions**
- 17.35.030 Conditional Use Permit Required**
- 17.35.040 Separation Requirements**
- 17.35.050 Criteria for Permit Approval**
- 17.35.060 Review Process**

17.35.010 PURPOSE AND DESCRIPTION. The purpose of this Chapter is to allow the reasonable location of sexually oriented businesses within the city in a manner which will protect property values, neighborhoods and residents from the potential adverse secondary effects of sexually oriented businesses, while providing to those who desire to patronize sexually oriented businesses such opportunity in appropriate areas within the city. It is not the intent of this Chapter to suppress any speech activities protected by the First Amendment to the United States Constitution but to impose content neutral regulations which address the adverse secondary effects that sexually oriented businesses may have on adjoining properties.

It has been determined, and reflected in the land use studies of various U.S. cities, that businesses which have as their primary purpose the selling, renting or showing of sexually explicit materials have negative secondary impacts upon surrounding businesses and residences. The experience in other U.S. cities is that the location of sexually oriented businesses significantly increases the incidence of crimes, especially sex offenses, including sexual assault, indecent exposure, lewd and lascivious behavior, and child molestation.

It has been determined, and reflected in the land use studies of various U.S. cities, that sexually oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and down-grading of property values.

It is the intent of these regulations to allow sexually oriented businesses to exist within the city in various dispersed locations rather than to allow them to concentrate in any one business area. It is further the purpose of these regulations to require separation requirements between sexually oriented businesses and residential uses, churches, parks, and educational institutions in an effort to buffer these uses from the secondary impacts created by sexually oriented business activity.

17.35.020 DEFINITIONS.

- A. Unless otherwise defined below, terms used in this Chapter pertaining to sexually oriented businesses shall be as defined in Section 5.40.020 of the Fruita Municipal Code.
- B. Business: Means and includes a sexually oriented business as defined in subsection 5.40.020 (N) of Title 5 of the Fruita Municipal Code.

17.35.030 CONDITIONAL USE PERMIT REQUIRED. A conditional use permit is required for the operation of a sexually oriented business in the General Commercial (GC) zone and the Limited Industrial Research and Development (LIRD) zone. Additional requirements for the granting of a conditional use permit are found in Section 17.13.040, conditional use permits.

17.35.040 SEPARATION REQUIREMENTS. No sexually oriented business shall be located within one thousand (1,000) feet of another sexually oriented business, residentially zoned or used property, church, day care center, park or educational institution (whether within or without the city). A waiver of the foregoing restrictions may be applied for in accordance with subsection (B) of this Section.

- A. Method of Measurement. The one thousand (1,000) feet separation measurement shall be made in a straight line without regard to intervening structures or objects from the nearest property line of the proposed sexually oriented business to the nearest property line of another sexually oriented business, residentially zoned or used property, church, park, day care center or educational institution.
- B. Waiver Criteria. In establishing the provisions of this Section, the City Council hereby finds and determines that there may be exceptional or extraordinary circumstances or conditions which are applicable to properties within the city or to the intended uses of properties within the city that do not generally apply to the property or class of uses in the same zone, and such that denial of an application for relief would result in an inability to reasonably utilize property. Therefore, it is necessary to provide for such extraordinary relief in the form of a waiver. In reviewing such applications for waivers, the burden shall be upon the applicant to meet the criteria set forth in this Section.

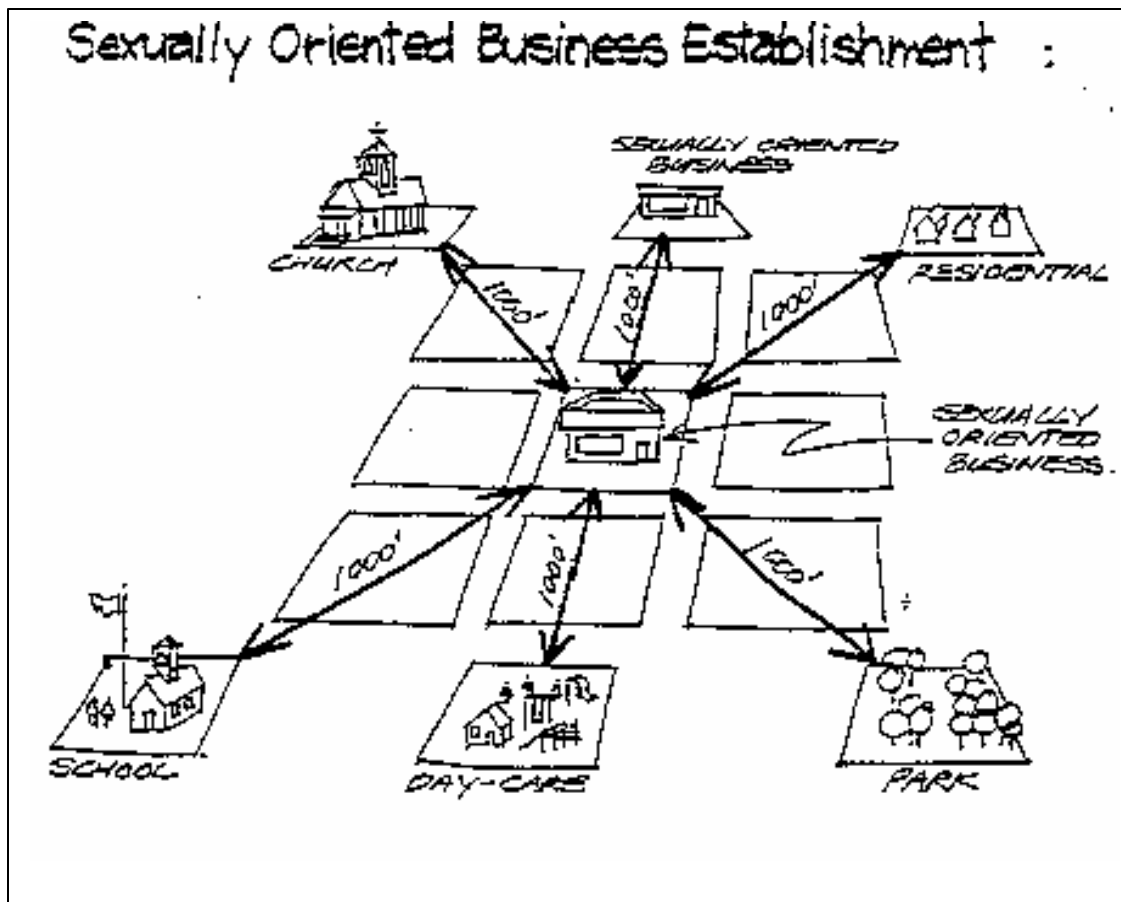


Figure 35-1

1. A waiver to the separation requirements set forth in this Section may be granted as a part of the conditional use review process if the presumptions in Section 17.35.010 of this Chapter are overcome by proof that the establishment of a sexually oriented business within one thousand (1,000) feet of another sexually oriented business establishment or establishment of a sexually oriented business within one thousand (1,000) feet of any residential zone, residential use, park, church or educational institution as applicable, will not have a deleterious effect on surrounding residential and business areas by creating blight, downgrading of property values or tending to cause an increase in crime.

2. In granting a waiver to the separation requirements the Planning Commission or City Council may impose reasonable conditions relating to hours of operation, screening, buffering and signage as long as the conditions imposed are not designed to prohibit the dissemination of protected materials under the First Amendment to the United States Constitution.

17.35.050 CRITERIA FOR PERMIT APPROVAL. It shall be unlawful for any person to conduct or establish any sexually oriented business activity or enterprise until a conditional use permit for a sexually oriented business has been approved by the City Council. Such permits shall be approved if the criteria set forth in Section 17.13.040 and the following criteria are met:

- A. The subject property is zoned General Commercial (GC) and Limited Industrial and Research Development (LIRD);
- B. The subject property meets the one thousand (1,000) foot separation requirements as set forth subsection (A) of Section 17.35.040 or a waiver has been granted pursuant to subsection (B) of the same Section;
- C. The subject property contains off-street parking in accordance with the requirements of Chapter 17.39; and
- D. The proposed sexually oriented business building has a certificate of occupancy.

17.35.060 REVIEW PROCESS. Applicants for a conditional use permit for a sexually oriented business shall submit a completed conditional use application form which contains the information required by 17.13.040, and, in addition, distances to other sexually oriented businesses, residentially zoned or used property, churches, day care centers, and park or educational institutions. The application shall be reviewed pursuant to the conditional use permit process as outlined in Section 17.13.040.

Chapter 17.37
HISTORIC PRESERVATION

Sections:

- 17.37.010 Purpose**
- 17.37.020 Board Established**
- 17.37.030 City Registry Established**
- 17.37.040 Designation of Historic Structures, Sites and Districts**
- 17.37.050 Procedures For Designating Historic Structures, Sites and Districts For Preservation**
- 17.37.060 Criteria For Designation**
- 17.37.070 Review of Alterations and Demolition**
- 17.37.080 Revocation of Designation**

17.37.010 PURPOSE . The purpose of this Chapter is to enhance the community's local resources and to promote the public health, safety, prosperity, and welfare through:

- A. The protection and preservation of the city's architectural, historic and cultural heritage, as embodied in designated historic structures, sites, and districts, by appropriate regulations and incentives;
- B. The establishment of a City Register listing designated structures, sites and districts; and
- C. The provision of educational opportunities to increase public appreciation of Fruita's unique heritage.

17.37.020 BOARD ESTABLISHED . An Historic Preservation Board, hereinafter in this Chapter referred to as the "Board," which shall have principal responsibility for matters of historic preservation, is hereby established.

- A. **Membership.** The Board shall consist of a minimum of five (5) members and not more than seven (7) members providing a balanced, community-wide representation. The Director of the Community Development Department and/or appointed department representatives shall serve as staff to the Board. There shall be one (1) member representative of the downtown merchants.
- B. **Appointments and Terms of Office.** Members of the Board shall be appointed by the City Council and shall serve three (3) year staggered terms from the date of appointment.

Members may continue to serve until their successors have been appointed. Appointments to fill vacancies on the Board shall be made by the City Council. All members of the Board shall serve without compensation except for such amounts determined appropriate, in advance, by the City Council to offset

expenses incurred in the performance of their duties. Members of the Board may be removed by the City Council without cause being stated.

C. Powers and Duties - The Board shall after solicitation of public comment and at a properly noticed public meeting:

1. Recommend eligibility criteria for the designation of historic resources and for review of proposals to alter designated resources;
2. Review and determine qualifications of properties nominated for designation as either an historic structure, site or district and recommend to City Council approval or denial of a designation;
3. Review and make recommendations to the owner(s) on proposed alterations or demolitions to a designated historic structure, site or district;
4. Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the City Register, the State Register and the National Register of Historic Places;
5. Develop and assist in public education programs including, but not limited to, walking tours, brochures, a marker program for historic properties, lectures, exhibits and conferences;
6. Conduct surveys of historic sites, properties, and areas for the purpose of defining those of historic significance, and prioritizing the importance of identified historic areas. The Board may create a list of structures of historical or archeological merit, which have not been designated;
7. Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses and other methods which would implement the completion of purposes of this Chapter; and
8. Actively pursue financial assistance for preservation-related programs.

D. Compliance with Laws. The Board shall conduct its business in accordance with the State's Public Meetings Act, Open Records Act and other laws applicable to local public bodies.

E. Bylaws. The Board shall propose to the City Council for approval bylaws as the Board deems necessary.

17.37.030 CITY REGISTRY ESTABLISHED . The Fruita City Council hereby establishes the City of Fruita Register of Historic Sites, Structures and Districts. Historic

sites, structures or districts may be listed on said register only if said site, structure or district has been designated by the City Council following recommendation by the Planning Commission and Board.

All properties listed on the National or State Register are eligible for the City Register but are not designated until approval, pursuant to this Chapter, is obtained.

17.37.040 DESIGNATION OF HISTORIC STRUCTURES, SITES AND DISTRICTS.

- A. Pursuant to the procedures set forth in this Chapter, the City Council may, by resolution:
 - 1. Designate as historic an individual structure, site or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value; and/or
 - 2. Designate as an historic district an area containing a number of structures or sites having special historical or architectural value.
- B. Each such designation shall include a description of the characteristics of the structure, site or historic district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic structure, site or district.
- C. No individual structure or site will be designated without the consent of all owners and/or lien holder(s) of record. Historic districts may be designated in accordance with Colorado Revised Statutes and the provisions in this Chapter.
- D. The purpose and effect of designation is:
 - 1. To assist local groups interested in preservation of physical structures, sites or districts, and to recognize locally significant structures, sites or districts;
 - 2. To provide a mechanism to educate the public on local history, development of the community, architectural styles, and housing and business development;
 - 3. To enable the owners of the property in the city to take advantage of historic preservation programs and opportunities; and
 - 4. To make all properties listed on the City Registry eligible for such incentive programs as may be developed.

17.37.050 PROCEDURES FOR DESIGNATING HISTORIC STRUCTURES, SITES AND DISTRICTS FOR PRESERVATION .

- A. A nomination for designation listing in the City Register may be made by the Board or by any citizen by filing an application with the Community Development Department. The applicant shall pay all public notice expenses, recording fees and any other fees established by resolution of the City Council.
- B. Board Review.
1. The Board shall hold a public meeting on the designation application no more than thirty (30) days after the filing of the application.
 2. The Board shall review the application for conformance with the established criteria for designation and with the purposes of this Chapter.
 3. Within thirty (30) days after the conclusion of the public meeting, but in no event more than thirty (30) days after the meeting, unless otherwise mutually agreed by the Board, the applicant, and the owner or owners other than the applicant, the Board shall recommend either approval, modification and approval or disapproval of the application. The Board may recommend approval conditional upon the execution of certain easements, covenants, or licenses.
 4. The Board shall forward to the Planning Commission in writing any recommendation concerning a designation and further state any recommendations as to easements, covenants, or licenses that must be met by the property owner to receive and/or maintain the designation.
- C. Planning Commission Review.
1. The Planning Commission shall hold a public hearing on the designation application no more than thirty (30) days after receipt of the Board's recommendation.
 2. The Planning Commission shall review the application for conformance with the established criteria for designation and, with the purposes of this Chapter.
- D. City Council Review.
1. The City Council shall hold a public hearing on the designation application no more than thirty (30) days after the receipt of the Planning Commission recommendation.

2. The City Council shall review the application for conformance with the established criteria for designation and, with the purposes of this Chapter.
 3. After considering the evidence presented to it, the City Council shall choose to designate or not designate a structure, site, or historic district by ordinance.
- E. When a structure, site or historic district has been designated as provided herein, the Director of the Community Development Department shall promptly notify the record owners of the property, according to the County Assessor's records or other available information, and record the designation with the County Clerk and Recorder.

17.37.060 CRITERIA FOR DESIGNATION . The Board and Planning Commission will consider the following criteria in reviewing nominations of properties for designation.

- A. Structures - Structures must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, cultural or geographic/environmental significance. A structure can be exempted from the age standard if the City Council finds it to be exceptionally important in other criteria.
1. Historic structures or sites shall meet one (1) or more of the following in order to be considered for designation.
 - a. Architectural:
 - i. Exemplifies specific elements of an architectural style or period;
 - ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents an innovation in construction, materials or design;
 - v. Represents a built environment of a group of people in an era of history;
 - vi. Exhibits a pattern or grouping of elements representing at least one (1) of the above criteria; or
 - vii. Is a significant historic remodel.

- b. Cultural:
 - i. Is a site of historic event that had an effect upon society;
 - ii. Exemplifies cultural, political, economic or ethnic heritage of the city; or is associated with a notable person or the work of a notable person.
 - c. Geographic/Environmental:
 - i. Enhances the sense of identity of the city; or
 - ii. Is an established and familiar natural setting or visual feature of the city.
2. Prehistoric, paleontological and historic archaeological structures or sites shall meet one (1) or more of the following:
- a. Architectural:
 - i. Exhibits distinctive characteristics of a type, period or manner of construction; is a unique example of structure.
 - b. Cultural:
 - i. Has the potential to make an important contribution to the knowledge of the area's history or prehistory;
 - ii. Is associated with an important event in the area's development;
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
 - iv. Is a typical example or is associated with a particular ethnic or other community group; or
 - v. Is a unique example of an event in local history.
 - c. Geographic/Environmental:
 - i. Is geographically or regionally important.
3. Each property will also be evaluated based on physical integrity using the following criteria (a property need not meet all the following criteria):

- a. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation;
- b. Retains original design features, materials and/or character;
- c. Is in the original location or same historic context if it has been moved; or
- d. Has been accurately reconstructed or restored.

B. Historic Districts.

- 1. For the purposes of this Chapter a district is a geographically definable area including a concentration, linkage or continuity of sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities.
- 2. Significance is determined by applying criteria to the pattern(s) and unifying element(s).
- 3. Nominations will not be approved unless the application contains written approval from owners of at least sixty (60) percent of the properties within the district boundaries.
- 4. Properties that do not contribute to the significance of the historic district may be included within the boundaries as long as the non-contributing elements do not noticeably detract from the district's sense of time, place and historical development. Non-contributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or Information potential.
- 5. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or intensity as established through testing or survey.
- 6. Once districts are designated, applicable design guidelines and other appropriate restrictions may be included as part of the designation.
- 7. In addition to meeting at least one (1) of the criteria as outlined in subsection (8) of this subsection (B), the designated contributing sites and structures within the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.

8. Historic districts shall meet one (I) or more of the following:
 - a. Architectural:
 - i. Exemplifies specific elements of an architectural period or style;
 - ii. Is an example of the work of an architect or builder who is recognized for expertise nationally, State-wide, regionally or locally;
 - iii. Demonstrates superior craftsmanship or high artistic value;
 - iv. Represents an innovation in construction, materials, or design;
 - v. Represents a built environment of a group of people in an era of history;
 - vi. Is a pattern or a group of elements representing at least one of the above criteria; or
 - vii. Is a significant historic remodel.
 - b. Cultural:
 - i. Is the site of an historic event that had an effect upon society;
 - ii. Exemplifies cultural, political, economic or social heritage of the community; or
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
 - c. Geographic/Environmental:
 - i. Enhances sense of identity of the community; or
 - ii. Is an established and familiar natural setting or visual feature of the community.

- d. Archaeology/Subsurface:
 - i. Has the potential to make an important contribution to the area's history or prehistory;
 - ii. Is associated with an important event in the areas development;
 - iii. Is associated with a notable person(s) or the work of a notable person(s);
 - iv. Has distinctive characteristics of a type, period or manner of construction;
 - v. Is of geographical importance;
 - vi. Is a typical example/association with a particular ethnic group;
 - vii. Is a typical example/association with a local cultural or economic activity; or
 - viii. Is a unique example of an event or structure.

17.37.070 REVIEW OF ALTERATIONS AND DEMOLITION. The owner is required to consult with the Board before making any alteration or any demolition of a structure listed on the City Register. The Board shall determine if the alteration is compatible with the designation. The Board shall review any proposed demolition and have up to one hundred eighty (180) days to review alternatives to demolition such as historic grants and loans for rehabilitation, adaptive reuse alternatives, advertisement for alternatives to demolition, public/private partnerships, etc.

- A. For the purposes of this Section, the term "alteration" shall mean any proposed modification to a designated historic site, structure or district, which could have an affect on the character of the historic resource relative to the criteria by which it was designated. Examples of alterations for structures may include additions, any exterior modifications, including signage to be affixed to the facade, and any interior modifications that may affect the characteristics for, which the structure was designated.
- B. Criteria to Review Alterations - In reviewing a proposed alteration, the Board shall consider the project in terms such as design, finish, material, scale, mass and height. When the subject site is in an historic district, the Board must also find that the proposed development is visually compatible with the development on adjacent properties, as well as any guidelines adopted as part of the given historic district designation. For the purposes of this Section, the term "compatible" shall

mean consistent with, harmonious with and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.

The Board will review all alterations in terms of the Secretary of the U.S. Department of Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings."

- C. The Board will use the following criteria to determine compatibility of a proposed alteration:
1. The effect upon the general historical and architectural character of the structure and property;
 2. The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures;
 3. The size of the structure. its setbacks, its site, location, and the appropriateness thereof, when compared to existing structure and the site;
 4. The compatibility of accessory structures and fences with the main structure on the site, and with other structures;
 5. The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which such work is done;
 6. The condition of existing improvements and whether they are a hazard to public health and safety; and
 7. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

17.37.080 REVOCATION OF DESIGNATION.

- A. If a building or special feature on a designated site has been altered in such a way so as to negate the features necessary to retain designation, the owner may apply to the Board for a revocation of the designation, or the Board shall recommend revocation of the designation to the City Council in the absence of the owner's application to do so.
- B. If a designated structure is moved or demolished, the designation shall, without notice and without Board recommendation, automatically terminate. If moved, a new application for designation at the new location must be made in order for designation to be considered.

- C. Upon the City Council's decision to revoke a designation, the Department of Community Development shall cause to be prepared a notice to the property owner (s) of the revocation.

Chapter 17.39
PARKING STANDARDS

Sections:

- 17.39.010 Off-Street Parking Standards; General Provisions**
- 17.39.020 Off-Street Parking Standards; Applicability**
- 17.39.030 Number of Off-Street Parking Spaces Required**
- 17.39.040 Location of Parking Areas**
- 17.39.050 Loading Areas**
- 17.39.060 Parking Area Surfacing**
- 17.39.070 Design of Parking Areas**
- 17.39.080 On-Street Parking Standards for Residential Cul-de-Sacs**

17.39.010 OFF-STREET PARKING STANDARDS; GENERAL PROVISIONS. In order to ensure that sufficient parking is provided to serve the requirements of all land uses in the City of Fruita, and to avoid congestion in the streets, the requirements of this Chapter shall constitute minimum requirements for all land uses. Additional spaces above the minimum number required may be provided, but the maximum number of access ways to and from parking areas shall not be exceeded.

17.39.020 OFF-STREET PARKING STANDARDS; APPLICABILITY.

- A. Except as provided herein, the provisions of this Chapter shall apply to all uses established or commenced on or after the effective date of this Title.
- B. For uses existing on the effective date of this Title, parking spaces or areas existing on such date shall not be diminished in number or size to less than that required for such use under this Chapter.
- C. When an existing use or building is expanded, off-street parking, loading areas and landscaping shall be provided as required for the added floor area, whether or not they were provided for the existing use or building.
- D. When the use of an existing building or land is changed and requires more off-street parking than the existing use, off-street parking, loading areas and landscaping shall be provided as required for the new use, whether or not they were provided for the existing use.
- E. Parking Regulations in Downtown Mixed Use zone:
 - 1. The Downtown Mixed Use (DMU) zone is subject to different parking standards than the

rest of the City of Fruita. The DMU zone contains a unique historic area of Fruita that was established before the invention of the automobile. It provides a unique pedestrian oriented environment with each building built side by side with the next building and typically small narrow lots, relatively short blocks and alley access. Parking takes place on the streets and in back of the buildings off of the alleys. To require off-street parking facilities for each use at levels required for other commercial areas would destroy the character of the area and encourage the demolition of historic structures in favor of parking lots.

2. No off-street parking will be required for uses in existing buildings and reconstruction of existing buildings in the DMU zone south of Pabor Avenue (“Downtown Core”).
3. New buildings in the Downtown Core are subject to the requirements of this Chapter, except that the minimum parking standards in Section 17.39.030 shall be reduced by fifty (50) percent. Alternatively, upon City Council adoption of a Parking District In Lieu Fee, proponents of new buildings may pay an in lieu fee which shall be dedicated to developing public parking facilities in the Downtown Core.
4. Where new development abuts Aspen Avenue in the Downtown Core, all off-street parking shall be provided on the rear one-half (½) of the lot and not within forty (40) feet of Aspen Avenue. Alternatively, off-street parking may be placed closer than forty (40) feet to Aspen Avenue where it is provided underground, or in a multistory parking garage.

17.39.030 NUMBER OF OFF-STREET PARKING SPACES REQUIRED.

- A. Off-street parking spaces shall be provided according to the following schedule, and when computations result in a fraction, the nearest whole number shall apply. When parking is required for more than one use, the sum of the requirements for all uses shall apply.

<p style="text-align: center;">Use Categories</p> <p style="text-align: center;">(Examples of Uses are in Chapter 17.04)</p>	<p style="text-align: center;">Minimum Motorized Vehicle Parking Per Land Use</p> <p style="text-align: center;">(fractions rounded down to the closest whole number)</p>	<p style="text-align: center;">Minimum Bicycle Parking Per Land Use</p> <p style="text-align: center;">(fractions rounded down to the closest whole number)</p>
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Use Categories (Examples of Uses are in Chapter 17.04)	Minimum Motorized Vehicle Parking Per Land Use (fractions rounded down to the closest whole number)	Minimum Bicycle Parking Per Land Use (fractions rounded down to the closest whole number)
Residential Categories		
Accessory Dwelling	None when the primary single family dwelling Provides 3 spaces	none
Single Family Dwelling, including attached and detached dwellings	3 spaces per dwelling unit	none
Duplex	4 spaces per duplex	none
Multifamily	1 space per studio or 1-bedroom unit 1.5 spaces/unit per 2-bedroom unit 2 spaces/unit per 3-bedroom or larger unit Plus one (1) additional space for every six dwelling units	1 space per unit
Group Living, such as nursing or convalescent homes, rest homes, assisted living, congregate care, and similar special needs housing	1 space per 4 beds	1 space per 20 beds
Commercial Categories		
Drive-up/Drive-In/Drive-Through (drive-up windows, kiosks, ATM's, similar uses/facilities)	See Section 17.39.070.B	none

Use Categories (Examples of Uses are in Chapter 17.04)	Minimum Motorized Vehicle Parking Per Land Use (fractions rounded down to the closest whole number)	Minimum Bicycle Parking Per Land Use (fractions rounded down to the closest whole number)
Commercial Categories (continued)		
Bed and Breakfast Inn	1 space per bedroom	none
Educational Services, not a school (e.g., tutoring or similar services)	1 space per 500 sq. ft. floor area	1 space per 1,000 sq. ft.
Entertainment, Major Event	1 space per 500 sq. ft. or 1 per 6 seats or per CU review	1 space per 1,000 sq. ft.
Offices including medical, dental and veterinary offices	1 space per 500 sq. ft. floor area	1 space per 1,000 sq. ft.
Outdoor Recreation, Commercial	1 space per 500 sq. ft.	1 space per 1,000 sq. ft.
Retail Sales and Service (see also Drive-up Uses)	<u>Retail:</u> <u>Low Volume (such as clothing, auto parts):</u> 1 space per 500 sq. ft, except bulk retail (e.g., auto, boat, trailers, nurseries, lumber and construction materials, furniture, appliances, and similar sales) 1 per 1,000 sq. ft. <u>High Volume (such as convenience store, grocery store):</u> 1 space per 250 sq. ft.	1 space per 1,000 sq. ft.
	<u>Restaurants and Bars:</u> 1 space per 250 sq. ft. floor area including outdoor seating areas	1 space per 500 sq. ft.
	<u>Health Clubs, Gyms, Continuous Entertainment (e.g., bowling alleys):</u> 3 spaces per 1,000 sq. ft.	1 space per 1,000 sq. ft.

Use Categories (Examples of Uses are in Chapter 17.04)	Minimum Motorized Vehicle Parking Per Land Use (fractions rounded down to the closest whole number)	Minimum Bicycle Parking Per Land Use (fractions rounded down to the closest whole number)
Commercial Categories (continued)		
Retail Sales and Service (see also Drive-up Uses) <i>(continued)</i>	<u>Lodging (hotels, motels, inns)</u> (see also Bed and Breakfast Inns): 0.75 per rentable room; for associated uses, such as restaurants, entertainment uses, and bars, see above	1 space per 4 rooms
	<u>Theaters and Cinemas:</u> 1 per 6 seats	1 space per 15 seats
Self-Service Storage	No standard	none
Industrial Categories		
Industrial Service (See also Drive-up Uses)	1 space per 1,000 sq. ft. of floor area	1 space per 3,000 sq. ft.
Manufacturing and Production	1 space per 1,000 sq. ft. of floor area	1 space per 3,000 sq. ft.
Warehouse and Freight Movement	1 space per 500 sq. ft. of floor area Bulky materials such as vehicles and construction material is measured at 1 space per 1,000 square feet of area.	1 space per 2,000 sq. ft.
Wholesale Sales	1 space per 1,000 sq. ft. of area used for storage of wholesale materials. Bulky materials such as vehicles and construction material is measured at 1 space per 2,000 square feet of area.	1 space per 3,000 sq. ft.
Institutional Categories		
Basic Utilities	None	none
Community Service	1 space per 200 sq. ft. of floor area	1 space per 500 sq. ft.
Daycare, adult or child daycare; does not include Family Daycare	1 space per 500 sq. ft. of floor area	1 space per 1,000 sq. ft.

Use Categories (Examples of Uses are in Chapter 17.04)	Minimum Motorized Vehicle Parking Per Land Use (fractions rounded down to the closest whole number)	Minimum Bicycle Parking Per Land Use (fractions rounded down to the closest whole number)
Institutional Categories (continued)		
Parks and Open Space	Determined per CU or subdivision review, or no standard	Determined per CU or subdivision review, or no standard
Religious Institutions and Houses of Worship	1 space per 75 sq. ft. of main assembly area	1 space per 500 sq. ft. of main assembly area
Schools	<u>Grade, elementary, middle, junior high schools:</u> 2 spaces per classroom	5 spaces per classroom
	<u>High Schools:</u> 7 per classroom	5 spaces per classroom
Other Categories		
Accessory Uses (with a permitted use)	No standard, except some uses may be required to provide parking under the minimum standards for primary uses, as determined by the decision body through Conditional Use Permit review, or Site Design Review	No standard, except some uses may be required to provide parking under the minimum standards for primary uses, as determined by the decision body through Conditional Use Permit review, or Site Design Review
Agriculture - Nurseries and similar horticulture	See Retail Sales and Wholesale, as applicable	
Temporary Uses	As required by Section 17.13.040 or per CU review	

- B. For all uses requiring a Conditional Use Permit, parking requirements will be determined through the Conditional Use Permit review. More or less parking as identified in the table may be required as part of the Conditional Use Permit review.
- C. Other Uses. For uses not specifically listed above, the use classification for purposes of parking requirements shall be determined by the Community Development Department Director, based on the following criteria: (1) the similarity of the use to those uses listed in this Chapter; (2) the zone of the property; (3) the need for off-street parking in the area where the property is located; (4) the nature and extent of use of the property by the public; (5) the number of employees who will work on the subject property; and (6) the use capacity.
- D. Uses Not Known. For unknown commercial space for which all or part of the space has no designated use (such as strip malls or single buildings divided for more than two separate uses), the parking requirement shall be as follows: parking spaces shall be provided at the rate of one (1) space per three hundred (300) square feet for the first floor and one (1) space per six hundred (600) square feet for all other floor area.
- E. Alternative Parking Standards

- 1. Demand Analysis

An applicant may propose parking in amounts less than listed in Table 17.39.030 by submitting a parking demand analysis to the Community Development Director for review and approval. The parking demand analyses must be based on the proposed use and provide an estimate of parking demand based on the number of employees, residents (if applicable), and customer/visitors who are likely to travel to the subject site by transportation mode: automobile, transit, and bicyclists and pedestrians. The Community Development Director may, at his or her discretion, request the applicant submit supplemental information prepared by a qualified professional, which may include but is not limited to examples from similar uses in other comparable communities. The analysis shall be reviewed concurrently with other pending proposed land use application(s), if any.

- 2. Joint Use of Parking Spaces.

- a. When an owner or developer can demonstrate that two (2) separate uses do not require parking during the same hours and that adequate provisions have been made to ensure that the uses will not require parking during the same hours, such owner or developer may request the Community Development Department Director for permission to allow parking spaces which otherwise comply with the

provisions of this Chapter to fulfill the requirements for both uses. Permission for such joint use of parking spaces may be granted subject to such conditions as the Community Development Department Director finds necessary to carry out the purposes and intent of this Chapter.

- b. Off-street parking designated for joint use shall generally not be more than two hundred (200) feet from the property or use it is intended to serve, except that employee parking may be at a further distance if it can be reasonably used.
- c. An applicant requesting the joint use of parking spaces shall submit a proposed written agreement between the owners or other parties in interest of the structures or uses for which the joint parking arrangements are proposed, and a copy of such agreement, once executed, shall be recorded with the Mesa County Clerk and Recorder's Office.

17.39.040 LOCATION OF PARKING SPACES.

- A. Off-street parking shall be located only on portions of a lot improved for parking purposes, consistent with city standards and as approved by the city decision-making body. Enclosed underground parking spaces may be located anywhere on the lot.
- B. Parking areas shall not be located closer than five (5) feet to any public sidewalk (see also Section 17.39.070.G.2.a).
- C. Non- residential parking areas containing more than five parking spaces shall not be located closer than ten (10) feet to any residential zone or residential land use. This requirement does not apply in the DMU zone or commercial portions of a CMU zone.
- D. Bicycle parking spaces shall be located as close as possible to the entrance to the building or land use and shall not interfere with motorized or pedestrian traffic.

17.39.050 LOADING AREAS. For those uses requiring deliveries or service by truck and which are not contiguous to an alley, an off-street delivery truck berth at least fourteen (14) feet wide and thirty (30) feet long shall be provided in addition to the required parking area. Where the property or use is served or designed to be served by tractor-trailer delivery vehicles, the off-street loading berth shall be designed so that delivery vehicles using the loading area do not obstruct traffic movements in the parking area or in the public right-of-ways.

17.39.060 PARKING AREA SURFACING. All parking areas including bicycle parking areas shall be

surfaced with asphalt, concrete or brick, except the Agricultural Residential and Rural Estate zones. All parking areas and driving aisles which are not paved shall provide a dust-free surface whether the parking area and driving aisles are required by this Title or not. This includes parking for heavy equipment and overflow parking areas.

17.39.070 DESIGN OF PARKING AREAS. The following design standards shall be met for all parking areas, whether or not the parking area is required.

A. Access.

Except single and two (2) family residential dwellings, each access way between a public street and the parking area shall be not less than fifteen (15) feet or more than thirty-two (32) feet wide at the intersection of the access way with the public street, and a divider stop at least six (6) feet long shall be installed if the access way exceeds twenty-five (25) feet in width. Each access way shall be clearly and permanently marked and defined through the use of landscaping, rails, fences, walls or other barriers or markers. Said marking and defining may be augmented by painting or striping.

B. Stacking Spaces.

For any drive-in or drive-through retail use (such as fast food or pharmacy), four (4) stacking spaces shall be provided for each window, or counter on the entrance side, and one (1) such space on the exit side. For service uses (such as gas stations, quick lube and car washes), two stacking spaces shall be provided for each bay on the entrance side and one such space on the exit side. Stacking spaces shall not interfere with other required parking areas. Stacking spaces must measure at least twenty-two (22) feet long by ten (10) feet wide.

C. Parking for the Disabled.

Parking shall be provided pursuant to the Americans With Disabilities Act guidelines and standards. In the event the Americans with Disabilities Act, as amended, or the city's building codes adopted pursuant to Title 15 of the Fruita Municipal Code contain additional requirements, the strictest standard shall apply.

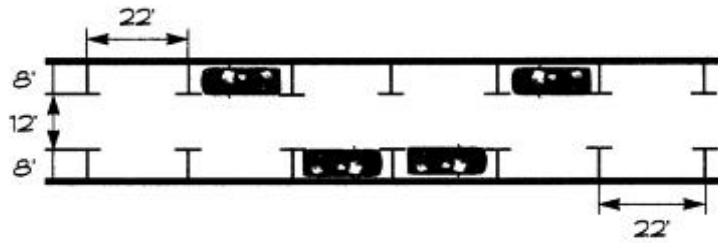
Minimum Number of Accessible Parking Spaces			
Source: ADA Standards for Accessible Design 4.1.2(5)			
Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
	Column A		
1 to 25	1	1	0
26 to 50	2	1	1
51 to 75	3	1	2
76 to 100	4	1	3
101 to 150	5	1	4
151 to 200	6	1	5
201 to 300	7	1	6
301 to 400	8	1	7
401 to 500	9	2	7
501 to 1000	2% of total parking provided in each lot	1/8 of Column A**	7/8 of Column A***
1001	20 plus 1 for each 100 over 1000	1/8 of Column A**	7/8 of Column A***
*vans and cars may share access aisles			
one out of every 8 accessible spaces		*7 out of every 8 accessible parking spaces	

D. Parking Area Layout.

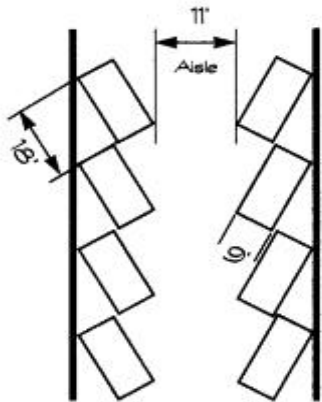
The dimensions of required off-street parking areas shall comply with the standards shown in the following Parking Dimensions Table.

Parking Dimension Table			
Parking Angle	Stall Width (feet)	Stall Depth (feet)	Aisle Width (feet)
0°	8.0	22.0	12
30°	9.0	18.0	11
	9.5	18.0	11
	10.0	20.0	11
45°	8.5	20.0	13
	9.0		12
	9.5		15
60°	8.5	21.0	18
	9.0		16
	9.5		15

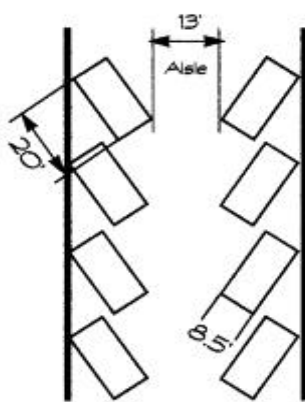
75°	8.5	19.5	25
	9.0		23
	9.5		22
90°	8.5	18.5	28
	9.0		25
	9.5		24



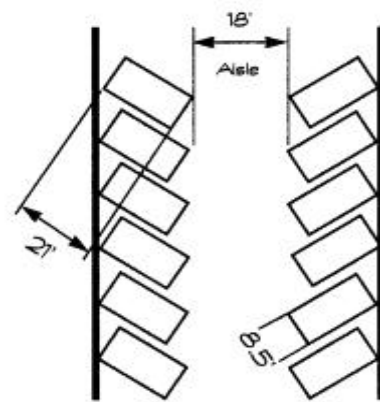
Zero Degree Parking (Parallel Parking)



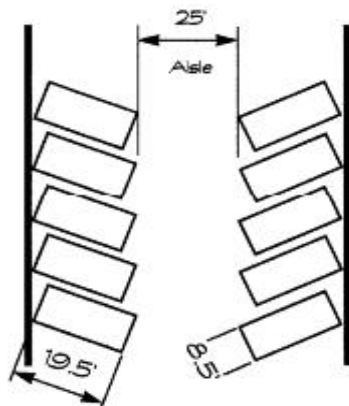
30 Degree Parking



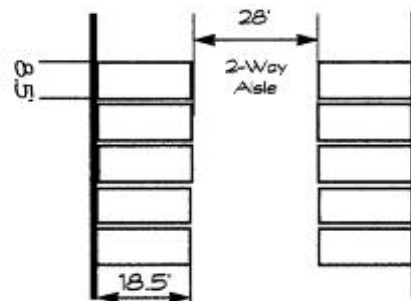
45 Degree Parking



60 Degree Parking



75 Degree Parking



Perpendicular
90 Degree Parking

Parking Area Layout/Design

E. Grade of Parking.

Outdoor parking areas shall not exceed a four (4) percent grade and shall be not less than one (1) percent grade. The grade of access-ways shall not exceed four (4) percent within one hundred (100) feet of the intersection with a public street.

F. Bicycle Parking Design

Bicycle parking devices shall be designed to allow one tire and the frame of the bicycle to be locked to the parking device with a standard U-lock and shall support the bicycle by the frame and not the tire.

G. Landscaping of Parking Areas.

1. Parking areas. For parking lots containing more than fifteen (15) parking spaces, a minimum ten (10) percent of the total surface area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped in addition to landscape requirements contained in other areas of this Code. Such landscaping shall consist of evenly distributed shade trees with shrubs and/or ground cover. “Evenly distributed” means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial shade canopy during summer months. At a minimum, one tree per seven (7) parking spaces shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than twenty (20) spaces shall include landscape islands with trees to break up the parking area into rows of not more than twelve (12) contiguous (side-by-side) parking spaces. All parking area landscapes shall have dimensions of not less than twenty-four (24) square feet of area, or not less than four (4) feet in width by six (6) feet in length, to ensure adequate soil, water, and space for healthy plant growth. Such areas shall have irrigation.
2. Buffering and Screening Required. Buffering and screening are required under the following circumstances:
 - a. Parking/Maneuvering Area Adjacent to Streets and Walkways. Where a parking or vehicle maneuvering area is within twenty (20) feet of a public street, sidewalk or walkway, an evergreen plant screen (e.g., ground covers and hedge) or decorative masonry wall, arcade, trellis, or similar partially opaque structure at least three (3) feet in width and three (3) feet in height shall be established between the parking/vehicle maneuvering area and public street, sidewalk or walkway as applicable. The required screening shall have breaks or portals to allow visibility (natural surveillance) into the site and to allow pedestrian access

to any adjoining walkways. Hedges used to comply with this standard shall be a minimum of thirty-six (36) inches, and not more than forty-eight (48) inches, in height at maturity, and shall be of such species, number, and spacing to provide year-round screening within one (1) year after planting. Landscaping must consist of desert landscaping or drought tolerant plant species as identified by the Colorado State University Tri-River Extension Service.

- b. Parking/Maneuvering Area Adjacent to Building or private street, sidewalk or walkway. Where a parking or maneuvering area or driveway is adjacent to a building or private street, sidewalk or walkway, the area shall be separated from the building private street, sidewalk or walkway by a curb or wheel stops and a raised walkway, plaza, or landscaped buffer. Raised curbs, bollards, wheel stops, or other design features shall be used to protect pedestrians, landscaping, and buildings from being damaged by vehicles. Where parking areas are located adjacent to residential ground-floor living space, a five (5) foot wide landscape buffer with a curbed edge may fulfill this requirement.

17.39.080 ON-STREET PARKING STANDARDS FOR RESIDENTIAL CUL-DE-SACS.

For cul-de-sacs in single family residential subdivisions, at least one (1) on-street parking space shall be provided for every unit with access along the cul-de-sac bulb. If one additional off-street space is provided for each dwelling unit with access from the cul-de-sac bulb, this on-street parking space requirement can be reduced up to fifty (50) percent.

Chapter 17.41

SIGN CODE

Section:

17.41.010	Purposes
17.41.020	Sign permits and administration
17.41.030	Enforcement and penalties
17.41.040	Exempt signs
17.41.050	Prohibited signs
17.41.060	Measurement of sign area and height
17.41.070	Sign design
17.41.080	Sign installation and maintenance
17.41.090	Standards for specific types of signs
17.41.100	Sign standards by zoning district
17.41.110	Creative signs
17.41.120	Bus shelter and bench advertising

17.41.010 PURPOSES.

- A. The standards and requirements contained in this Chapter are intended to coordinate the use, placement, physical dimensions, and design of all signs within the City of Fruita. The purposes of these standards are to:
1. Recognize that signs are a necessary means of visual communication for the convenience of the public and provide flexibility within the sign review/approval process to allow for unique circumstances and creativity;
 2. Recognize and insure the right of those concerned to identify businesses, services and other activities by the use of signs, and limit signs to those which are accessory and incidental to the use on the premises where such signs are located;
 3. Provide a reasonable balance between the right of an individual to identify his or her business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices;
 4. Protect the public from damage or injury caused by signs that are poorly designed or maintained and from distractions or hazards to pedestrians or motorists caused by the indiscriminate placement or use of signs;
 5. Ensure signs are well designed and contribute in a positive way to the Fruita's

visual environment, express local character, and help develop a distinctive image for the City of Fruita;

6. Encourage signs that are responsive to the aesthetics and character of their particular location, adjacent buildings and uses, and the surrounding neighborhood. Ensure signs are compatible and integrated with the building's architectural design and with other signs on the property;
7. Ensure signs are appropriate for the type of street on which they are located; and
8. Bring nonconforming signs into compliance with the standards contained in this Chapter.

(Ord. 2004-19)

17.41.020 SIGN PERMITS AND ADMINISTRATION.

- A. Sign Permit Required. To ensure compliance with the regulations of this Chapter, a sign permit shall be required in order to erect, move, alter, reconstruct or repair any permanent or temporary sign, except signs that are exempt from permits in compliance with Section 17.41.040 (Exempt Signs). In multiple tenant commercial buildings, a separate permit shall be required for each business entity's sign(s). Separate planning clearances for building permits and building and electrical permits may be required for signs and will be determined on a case-by-case basis. Changing or replacing the copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign or render the sign in violation of this Chapter.
- B. Application for a Sign Permit.
 1. Sign Permit Application Requirements. Applications for sign permits shall be made in writing on forms furnished by the Community Development Department staff. The application shall contain:
 - a. The location by street number and the legal description of the proposed sign structure;
 - b. Names and addresses of the owner, sign contractor and erectors;
 - c. Legible site plans which include the specific location of the sign and setbacks to adjacent property lines and buildings;
 - d. A detailed drawing indicating the dimensions, materials, and colors of the proposed sign structure. A certification by a structural engineer may be required by Community Development Department staff for a freestanding

or projecting sign;

- e. A graphic drawing or photograph of the sign copy;
- f. A description of the lighting to be used, if applicable;
- g. Proof of public liability insurance covering freestanding signs and projecting wall signs;
- h. If the sign is to be located off the premises advertised, a written lease or permission from the property owner of the site on which the sign will be located; and
- i. Sign permit fee and plan check fee as established by the current fee schedule approved by the City Council. The applicant shall pay all costs billed by the City of Fruita relative to the review of the application.

2. **Sign Permit Application Certification of Completion.** Within a reasonable time of the date of application submission, the Community Development Department staff shall either certify the application is complete and in compliance of all submittal requirements or reject it as incomplete and notify the applicant in writing of any deficiencies.

3. **Staff Review and Approval.** When the Community Development Department staff has determined the application to be complete, the Community Development Department Director shall review the sign permit in accordance with the established review criteria and has the authority to approve, approve with conditions or deny the sign permit. Upon the Community Development Department's approval of the sign permit, the sign permit and any planning clearances for building or electrical permits required for the sign shall be issued to the applicant.

C. **Sign Permit Review Criteria.** The following review criteria will be used by the Community Development Department to evaluate all sign permit applications:

1. Sign meets the requirements of this Chapter;
2. Sign conforms to the requirements of applicable building and electrical codes;
3. Sign conforms to the size, height, material and location requirements of this Title for the zone district in which it is located;
4. Sign will not interfere with pedestrian or vehicular safety;

5. Sign will not detract from the character of an architecturally significant or historic structure;
 6. Sign will not be located so as to have a negative impact on adjacent property;
 7. Sign will not detract from the pedestrian quality of a street or area; and
 8. Sign will not add to an over-proliferation of signs on a particular property or area.
- D. Appeal of Sign Permit Denial or Approval with Conditions. Any appeal of the Community Development Department's denial of a sign permit or approval with conditions shall be made to the Board of Adjustment as provided in Chapter 2.40 of the Fruita Municipal Code.
- E. Waivers. Any request for an increase in the maximum allowable area for a sign, or for signs not expressly permitted in these regulations, must be approved through a waiver granted by the City Council.

(Ord. 2004-19)

17.41.030 ENFORCEMENT AND PENALTIES.

- A. Discontinued Establishments; Removal of Signs. Whenever a business, industry, service or other use is discontinued, the sign(s) pertaining to the use shall be removed or obscured by the person or entity owning or having possession over the property within ninety (90) days after the discontinuance of such use.
- B. Illegal Signs.
1. Penalties. Violations of this Chapter shall be subject to the administrative and civil remedies and criminal penalties set forth in the Fruita Municipal Code, including Section 17.01.100.
 2. Removal of illegal signs in the public right-of-way. The City of Fruita may cause the removal of any sign within the public right-of-way or on property that is otherwise abandoned that has been placed there without first complying with the requirements of this Chapter.
 3. Storage of removed signs. Signs removed in compliance with this Section shall be stored by the City of Fruita for thirty (30) days, during which they may be recovered by the owner only upon payment to the City of Fruita for costs of removal and storage. If not recovered within the thirty (30)-day period, the sign and supporting structure shall be declared abandoned and title shall vest with the

City of Fruita. The costs of removal and storage, up to thirty (30) days, may be billed to the owner. If not paid, the applicable costs shall constitute a lien against the property, and may be certified to the County Treasurer for collection in the same manner as delinquent ad valorem taxes, as authorized by law. (Ord. 2004-19)

17.41.040 EXEMPT SIGNS.

- A. Exempt Signs. The following types of signs are exempt from the permit requirements of this Chapter and may be placed in any zone district subject to the provisions of this Chapter. Such signs shall otherwise be in conformance with all applicable requirements contained in this Chapter. All such signs (except government signs) shall be located outside a street right-of-way. Signs shall not interfere with traffic signs or the sight distance triangle at intersections. Evidence of the property owner's permission to install a sign may be required if the City of Fruita checks for the sign's compliance with this Chapter. All other signs shall be allowed only with a permit and upon proof of compliance with this Chapter.
1. Signs that are not visible beyond the boundaries of the lot or parcel upon which they are located and/or from any public thoroughfare or right-of-way shall be exempt from the provisions of this Chapter, except that such signs shall be subject to the safety regulations of the City's building codes adopted pursuant to Title 15 of the Fruita Municipal Code and the electric codes adopted by the State of Colorado.
 2. Address. Non-illuminated signs not to exceed two (2) square feet in area which identify the address and/or occupants of a dwelling unit or of an establishment.
 3. Architectural features. Integral decorative or architectural features of buildings so long as such features do not contain letters, trademarks, moving parts or lights.
 4. Art. Integral decorative or architectural features of buildings; works of art; so long as such features or works do not contain letters, trademarks, moving parts or lights.
 5. Banners. Banners applied to paper, plastic or fabric used to decorate or attract attention to a business establishment, provided:
 - a. The signs are displayed in conjunction with a grand opening celebration for a period not to exceed thirty (30) days; or
 - b. The signs are displayed in conjunction with a special sale for a period not to exceed thirty (30) days;

- c. The signs are displayed no more than two (2) times per calendar year per establishment;
 - d. The banner shall be securely attached to the wall of the establishment, freestanding signs or light poles on private property; and
 - e. Only one (1) banner per street frontage per establishment shall be permitted.
6. Building Identification, Historical Markers. Non-illuminated signs constructed of metal or masonry which are permanently affixed to buildings or structures for the purpose of identifying the name of a building, date of erection or other historical information as approved by the Community Development Department.
7. Bulletin Board. Bulletin board signs not exceeding fifteen square feet (15 sq. ft.) in gross surface area accessory to a church, school, or public or nonprofit institution.
8. Construction. Temporary construction signs provided that:
- a. Signs in conjunction with any residential use shall not exceed eight square feet (8 sq. ft.) each;
 - b. Signs in conjunction with all other uses shall have a maximum area of thirty-two square feet (32 sq. ft.) each;
 - c. Only one (1) such sign oriented per street front per premises shall be erected. Any two (2) such signs located on the same premises shall be located at least one hundred feet (100') apart as measured by using a straight line;
 - d. Such signs shall not be illuminated;
 - e. Such signs shall only appear at the construction site; and
 - f. Such signs shall be removed within seven (7) days after completion of the project.
9. Courtesy. Non-illuminated or indirectly illuminated signs which identify, as a courtesy to customers, items such as credit cards accepted, redemption stamps offered, menus or prices; limited to one (1) such sign for each use, not to exceed four square feet (4 sq. ft.) per face or eight square feet (8 sq. ft.) in total area. Such signs may be attached to the building, as projecting or wall signs, suspended from a canopy or included as an integral part of a freestanding sign.

10. Decorations (Holiday). Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, State, local or religious holiday or celebration; provided that such signs shall be displayed for not more than sixty (60) days in any one (1) year; and may be of any type, number, area, height, location, illumination or animation.
11. Directional. On-premises directional and instructional signs not exceeding six square feet (6 sq. ft.) in area apiece.
12. Doors. Signs affixed to door glass which identify the name and/or address of an establishment.
13. Farm Products. Temporary farm product signs provided that:
 - a. One on-premises sign may be used. Said sign shall be located off the street right-of-way and at least ten (10) feet away from any side lot line. Such sign shall have a maximum area of nine square feet (9 sq. ft.) and may not be illuminated.
 - b. A maximum of two (2) off-premises signs shall be permitted. Said off-premises signs may be no greater than four square feet (4 sq. ft.) apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way nor within ten feet (10') of a side lot line.
14. Flags. Flags, crests or banners of nations, or organizations of nations, or states and cities, or professional fraternal, religious, civic organizations, or generally accepted military service related flags (i.e. POWs) except when displayed in connection with commercial promotion.
15. Garage, Estate, Yard Sale or Farm Auction. Signs which advertise a private garage or yard sale on the lot on which the sign is located; provided such signs are displayed no more than twice per year per dwelling unit for a period not to exceed three (3) days.
16. Hazards. Temporary or permanent signs erected by the City of Fruita, public utility companies, oil and gas companies, or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables, gas lines and similar devices.
17. Memorial. Memorial signs, plaques or grave markers which are non-commercial in nature.
18. Merchandise. Merchandise, pictures or models of products or services which are incorporated as an integral part of a window display.

19. Notice Boards. Notice boards for public or religious institutions or other uses as approved by the Community Development Department and primarily intended for pedestrians.
20. Oil and gas operation. Identification signs for any oil and gas operation.
21. Political. Political signs displayed on private property in accordance with an official election or signs erected on behalf of candidates for public office and ballot issues provided:
 - a. The total area of all such signs on a lot does not exceed sixteen square feet (16 sq. ft.);
 - b. All such signs may be erected no sooner than sixty (60) days in advance of the election for which they were made;
 - c. The signs are removed within seven (7) days after the election for which they were made; and
 - d. The property owner upon whose land the sign is placed shall give written permission for the placement of said signs and will be responsible for violations.

The above described political signs shall be allowed in any development controlled by protective covenants.

22. Public Information. Signs which identify restrooms, public telephones or provide instructions as required by law or necessity, provided the sign does not exceed two square feet (2 sq. ft.) in area or as approved by the Community Development Department and is non-illuminated. (This category shall be interpreted to include such signs as "no smoking," "restrooms," "no solicitors," "self-service" and similar informational signs.)
23. Religious Symbols. Religious symbols located on a building or lot used for organized religious purposes.
24. Regulatory Signs. Regulatory signs erected on private property, such as "no trespassing" signs, which do not exceed two square feet (2 sq. ft.) per face or four square feet (4 sq. ft.) in total surface area, limited to four (4) such signs per use or per building, whichever is the greater number.
25. Sale, Lease, Rent. Temporary signs used to offer for sale, lease or rent the land or buildings upon which the sign is located provided:

- a. One (1) sign per street frontage advertising real estate ("For Sale", "For Rent", "For Lease" or "For Development") not greater than eight square feet (8 sq. ft.) in area in a residential zone district and thirty-two square feet (32 sq. ft.) in area in non-residential zone districts may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two signs are at least one hundred feet (100') apart as measured by the shortest straight line;
 - b. In addition to the on-site real estate sign(s), a maximum of three (3) directional signs, each not exceeding four square feet (4 sq. ft.) in area, shall be permitted off the subject premises. Such signs must be placed outside all existing rights-of-way. The message of said signs shall be limited to the name of the property or development being advertised, an address, a telephone number, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale", "For Rent", "For Lease", "For Development", etc;
 - c. No more than three (3) temporary directional signs advertising a specific planned commercial or mixed use development, subdivision, multi-family development, etc. may also be permitted off-site. Each such sign may have a maximum area of four square feet (4 sq. ft.) and shall be placed outside of all existing right-of-ways;
 - d. All such temporary signs shall be removed within seven (7) days after the real estate closing or lease transaction; and
 - e. No sign allowed under this subsection shall be lighted.
26. Scoreboards. Scoreboards for athletic fields.
27. Special Events. Temporary special event signs and banners for religious, charitable, civic, fraternal or similar non-profit or not-for-profit organizations provided that:
- a. Signs shall be erected no sooner than thirty (30) days prior and removed no later than seven (7) days after the event;
 - b. No such sign shall exceed thirty-two square feet (32 sq. ft.);
 - c. No such sign shall be illuminated; and
 - d. All such signs shall be located outside of the street right-of-way, unless

otherwise granted permission for such location by the City of Fruita or the Colorado Department of Transportation (CDOT). In no case may any such sign impede the view or travel of any motorists or pedestrians or be attached to any structure within the right-of-way (government signs, telephone poles, etc.) without permission.

28. Strings of Light Bulbs. Displays of string lights, provided:
 - a. They are decorative displays which only outline or highlight landscaping or architectural features of a building;
 - b. They are steady burning, clear, non-colored bulb lights. No blinking, flashing, intermittent changes in intensity or rotating shall be permitted;
 - c. They are no greater in intensity than five (5) watts;
 - d. They shall not be placed on or used to outline signs, sign supports, awnings and/or canopies;
 - e. They shall not be assembled or arranged to convey messages, words, commercial advertisements, slogans and/or logos;
 - f. They shall not create a safety hazard with respect to placement, location of electrical cords or connection to power supply;
 - g. They shall be placed only on private property; and
 - h. They shall be maintained and repaired so that no individual light bulb is inoperative. In the event the bulbs are not maintained or repaired, the string lights may be removed at the expense of the owner after giving notice to the owner pursuant to this Chapter.
29. Text. No permit shall be required for text or copy changes on conforming or legal non-conforming signs specifically designed to permit changes of the text or copy; provided that no structural changes are made to the sign, and provided that the name of the business to which the sign belongs is not changed.
30. Time and Temperature. Signs displaying time and temperature devices provided they are not related to a product.
31. Traffic Control. Signs for the control of traffic or other regulatory purposes including signs for the control of parking on private property, and official messages erected by, or on the authority of, a public officer in the performance of his/her duty.

32. Vacancy and No Vacancy. All "vacancy" and "no vacancy" signs, where they are not internally illuminated, indirectly illuminated or directly illuminated signs; provided that the area of the sign does not exceed two and one-half square feet (2½ sq. ft.) per face. Also, signs designed to indicate vacancy such as "yes," "no" or "sorry" shall also be exempt under the provisions of this subsection if they meet the area requirement.
33. Vehicular For Sale Signs. Motor vehicle for sale signs provided there is only one (1) sign per vehicle, the sign does not exceed two square feet (2 sq. ft.), and the vehicles are located in approved sales lots.
34. Vehicular Signs. Signs displayed on trucks, buses, trailers or other vehicles which are being operated or stored in the normal course of a business, such as signs indicating the name of the owner or business which are located on moving vans, delivery trucks, rental trucks and trailers and the like, shall be exempt from the provisions of this Chapter, provided that the primary purpose of such vehicles is not for the display of signs, and provided that they are parked or stored in areas appropriate to their use as vehicles.
35. Vending Machine Signs. Vending machine signs provided that the advertisement upon the vending machine sign is limited to the product vended.

(Ord. 2004-19)

17.41.050 PROHIBITED SIGNS.

- A. The following signs are inconsistent with the purposes and standards in this Chapter and are prohibited in all zone districts:
 1. Flashing, rotating, blinking or moving signs, animated signs, signs with moving, rotating or flashing lights or signs that create the illusion of movement, except for time and temperature devices;
 2. Any sign that is erected in such a location as to cause visual obstruction or interference with motor vehicle traffic, or traffic-control devices including any sign that obstructs clear vision in any direction from any street intersection or driveway;
 3. Mechanical or electrical appurtenances, such as "revolving beacons", that are designed to compel attention;
 4. Roof signs;
 5. Any sign other than traffic control signs erected, constructed, or maintained

within, over or upon the right-of-way of any street or highway, except in the case of a sign for which a permit has been issued in accordance with the requirements of this Chapter;

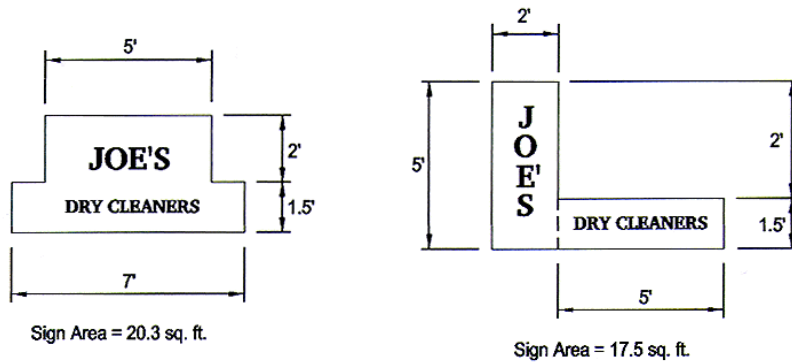
6. Off-premises advertising signs or any other sign not pertinent and clearly incidental to the permitted use on the property where located, except for temporary subdivision directional signs and political signs, and except for signs permitted in Section 17.41.090, Standards for Specific Types of Signs;
7. Any sign which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder or opening intended as a means of ingress or egress or providing light or air;
8. Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign;
9. Vehicle-mounted signs, including but not limited to, signs painted on or attached to semi-trailers or cargo containers when exhibited on private property adjacent to public right-of-way for the purpose of advertising the business or services offered on the property. Vehicle-mounted signs used in connection with a special event are exempted from the requirements of this Section during the duration of the special event only. Upon the conclusion of the special event, such signs must be dismantled. For the purposes of this subsection (9), the term “special event” shall mean a parade, circus, fair, carnival, festival, farmers' market or other similar event that is different in character from the customary or usual activities generally associated with the property upon which the special event is to occur;
10. Portable signs or signs not permanently affixed or attached to the ground or to any structure, except for political and real estate signs attached to posts driven into the ground, window signs and temporary barriers;
11. Rotating signs;
12. Searchlights;
13. Signs with optical illusion of movement by means of a design which presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy;
14. Inflatable freestanding signs or tethered balloons;
15. Fabric signs, flags, pennants or banners when used for commercial advertising purposes except as permitted in Section 17.41.040 (Exempt Signs);

16. Electronic message boards except governmental signs;
17. Wind signs;
18. Any sign (together with its supporting structure) now or hereafter existing which, ninety (90) days or more after the premises have been vacated, advertises an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the Community Development Department Director upon good cause for such extension being shown. (This provision shall not apply to permanent signs accessory to businesses which are open only on a seasonal basis, provided that there is clear intent to continue operation of the business);
19. Any sign or sign structure which:
 - a. Is structurally unsafe;
 - b. Constitutes a hazard to safety or health by reason of inadequate maintenance or dilapidation;
 - c. Is not kept in good repair; or
 - d. Is capable of causing electrical shocks to persons likely to come in contact with it; and
20. Any sign or sign structure which:
 - a. In any other way obstructs the view of, may be confused with or purports to be an official traffic sign, signal or device or any other official sign;
 - b. Uses any words, phrases, symbols or characters implying the existence of danger or the need for stopping or maneuvering a motor vehicle;
 - c. Creates in any other way an unsafe distraction for motor vehicle operators; or
 - d. Obstructs the view of motor vehicle operators entering a public street from any parking area, service drive, private driveway, alley or other thoroughfare.

(Ord. 2004-19)

17.41.060 MEASUREMENT OF SIGN AREA AND HEIGHT.

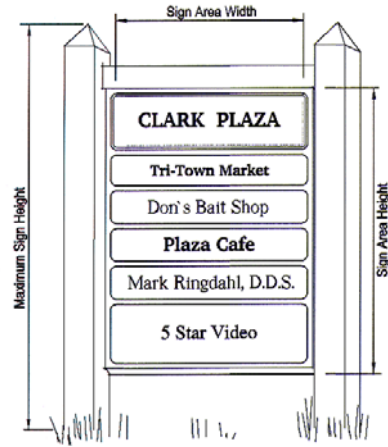
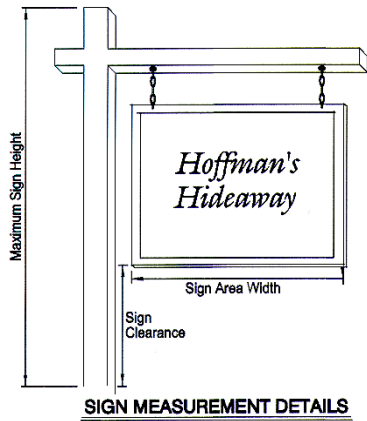
- A. Sign Surface Area. The area of a geometric shape enclosing any message, logo, symbol, name, photograph or display face shall be measured using standard mathematical formulas. Time and temperature devices shall not be included within the measurement of maximum sign area. (Ord 2004-19)



SIGN AREA MEASUREMENT

Figure 41-1

- B. Sign Support. Supporting framework or bracing that is clearly incidental to the display itself shall not be computed as sign area.
- C. Back-to-Back (Double-Faced) Signs. Back-to-back signs shall be regarded as a single sign only if mounted on a single structure, and the distance between each sign face does not exceed two feet (2') at any point.
- D. Three-Dimensional Signs. Where a sign consists of one or more three-dimensional objects (i.e. balls, cubes, clusters of objects, sculpture), the sign area shall be measured as their maximum projection upon a vertical plane. Signs with three-dimensional objects that exceed a projection of six inches (6") from the sign face may be approved in compliance with Section 17.41.110, Creative Signs.
- E. Wall Signs. If a sign is attached to a wall, only that portion of the wall onto which the sign face or letters are placed shall be calculated in the sign area.
- F. Sign Height. The height of a sign shall be measured from the highest point of a sign to the ground surface beneath it. When berms are used in conjunction with signage, the height of the sign shall be measured from the mean elevation of the fronting street. (For height of a monument sign, see subsection 17.41.090(E) of this Chapter.)



(Ord. 2004-19)

Figure 41-2

17.41.070 SIGN DESIGN.

A. Design Compatibility.

1. Creative design encouraged. Signs shall make a positive contribution to the general appearance of the street and commercial area in which they are located. A well-designed sign can be a major asset to a building. The City of Fruita encourages imaginative and innovative sign design. The creative sign application procedure (Section 17.41.110) is specifically designed for artistic and unusual signs that might not fit the standard sign regulations and categories.
2. Professionally made. Signs shall be made by a professional sign company or other qualified entity.
3. Proportionate size and scale. The scale of signs shall be appropriate for the building on which they are placed and the area in which they are located. Building signs shall be harmonious in scale and proportion with the building facade they are mounted to.
4. Sign location and placement.
 - a. Visibility - Signs shall not visually overpower nor obscure architectural features.

**THIS
NOT THIS**

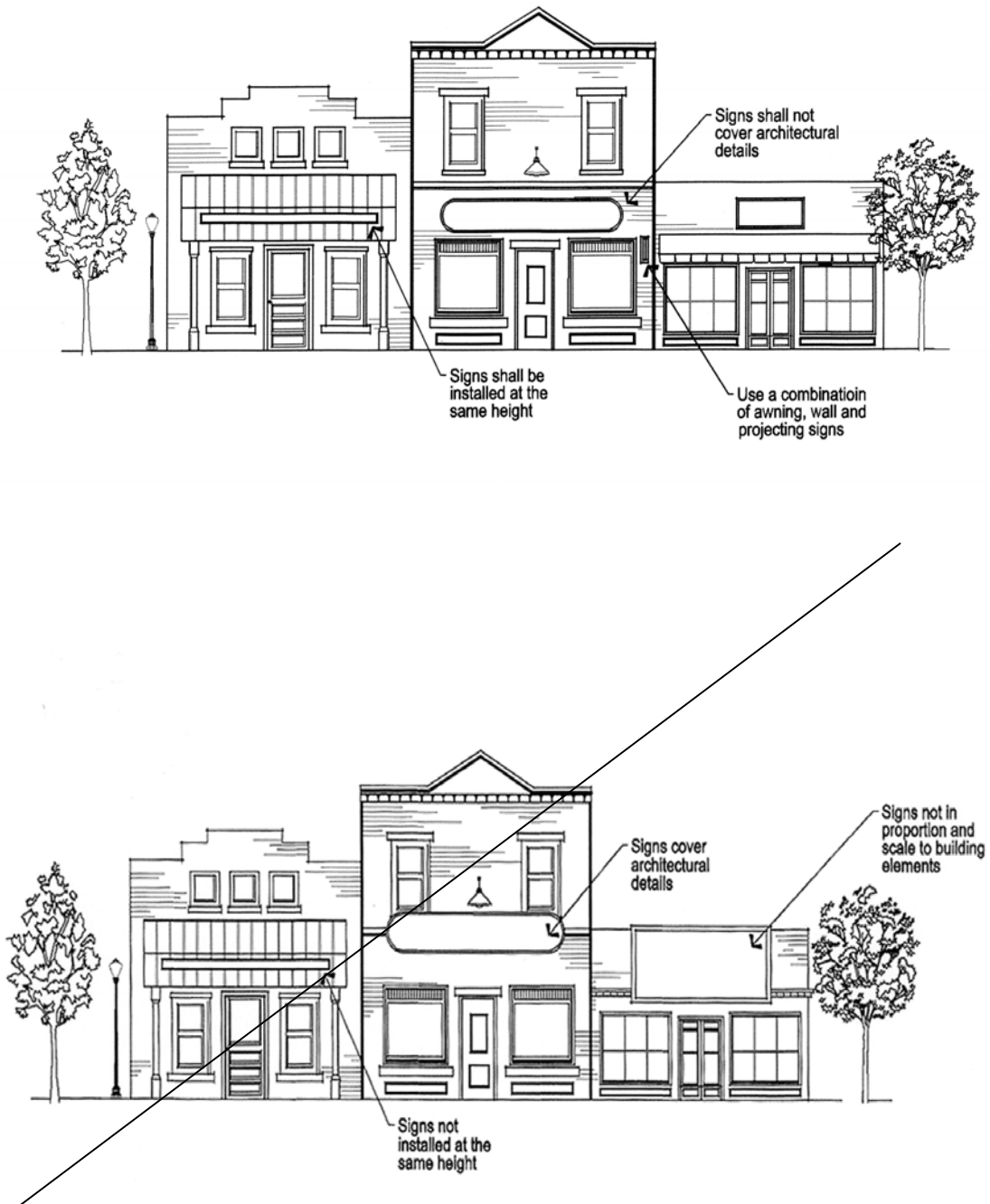


Figure 41-3

- b. Integrate signs with the building and landscaping - Carefully coordinate the sign with the architectural design, overall color scheme and landscaping. Signs shall be designed to complement or enhance the other signs for a building.
 - c. Unified sign band - Whenever possible, signs located on buildings with the same blockface shall be placed at the same height, in order to create a unified sign band. Wall signs should be located at the first floor level only for retail uses.
 - d. Monument signs - Locate monument signs in a planter setting within a landscaped area at the primary entries to residential, commercial and industrial developments to provide an overall project identity. A maximum of one (1) monument sign per entry is permitted.
 - e. Pedestrian-oriented signs - Pedestrian-oriented signs are encouraged. It is desirable to include a pedestrian-oriented sign as one of the permitted signs for a business. These signs are designed for and directed toward pedestrians so they can easily and comfortably read the sign as they stand adjacent to the business.
 - f. Street right-of-way - No sign shall be erected within the street right-of-way or near the intersection of any street(s) or driveways in such a manner as to obstruct free and clear vision of motorists or pedestrians or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Signs located at an intersection must be outside of the sight distance triangle described in subsection 17.43.100.
5. Landscaping. Freestanding signs shall be landscaped at their base in a way harmonious with the landscape concept for the whole site. Landscaping shall form an attractive, dense cluster at the base of the sign that is equally attractive in winter and summer.

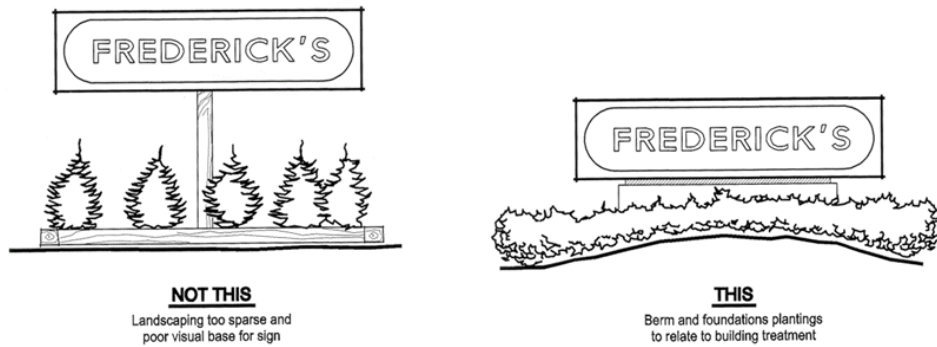


Figure 41-4

6. Reduce sign impact. Because residential and commercial uses generally exist in close proximity, signs shall be designed and located so that they have little or no impact on adjacent residential neighborhoods. Small-scale signs are encouraged.



Figure 41-5

B. Color.

1. Select colors carefully. Colors shall be selected to contribute to legibility and design integrity. Sign colors shall complement the colors used on the structures and the project as a whole. Colors or combinations of colors that are harsh and disrupt the

visual harmony and order of the street are unacceptable.

2. Use contrasting colors. Provide a substantial contrast between the color and the material of the background and the letters or symbols to make the sign easier to read during both the day and night. Light letters on a dark background or dark letters on a light background are most legible.
3. Avoid using too many colors. Colors or color combinations that interfere with legibility of the sign copy or that interfere with viewer identification of other signs shall be avoided.

C. Materials.

Signs shall be constructed of durable, high quality architectural materials. The sign package must use materials, colors and designs that are compatible with the building facade. Sign materials must be of proven durability. Treated wood, painted metal, stone, brick and stucco are the preferred materials for signs.

D. Legibility. Signs shall be adequately legible under the circumstances in which they are primarily seen. The legibility of signs is related to:

1. The speed at which they are viewed;
2. The context and surroundings in which they are seen; and
3. The design, colors and contrast of the sign copy and sign face.

The design of the sign including copy, lettering size and style, and colors shall logically relate to the average speed of the traffic which will see it. Signs shall legibly convey their messages without being distracting or unsafe to motorists reading them. Symbols and logos can be used in place of words whenever appropriate.

E. Sign Illumination.

1. Use illumination only if necessary.
2. Sign illumination shall complement, not overpower, the overall composition of the site.

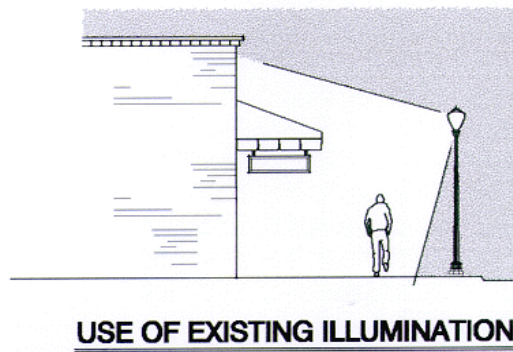


Figure 41-6

3. Use a direct light source. All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. When external light sources are directed at the sign surface, the light source must be concealed from pedestrians' and motorists' "lines of sight."

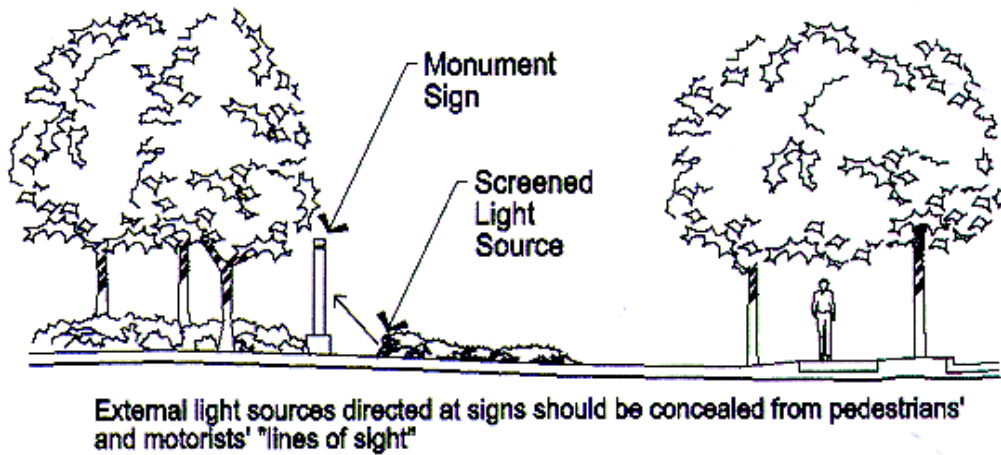


Figure 41-7

4. Signs must be illuminated in a way that does not cause glare onto the street and adjacent properties. Signs shall be lighted only to the minimum level for nighttime readability.
5. All lighted signs shall meet all applicable electrical codes and the electrical components used shall bear the label of an approval agency. Additionally, electrical permits shall be obtained for electric signs.
6. Flashing, moving, blinking, chasing or other animation effects are prohibited on all signs except time and temperature signs.
7. Neon tubing is an acceptable method of sign illumination only for window signs in commercial zone districts.
8. The use of individually-cut, back-lit letter signs is encouraged.
9. No commercial sign within five hundred (500) linear feet of a pre-existing residential structure may be illuminated between the hours of 11:00 p.m. and 6:00 a.m. A residence shall be deemed "pre-existing" for purposes of this subsection if it has a valid building permit in effect for construction of said structure or if construction of said structure was complete on or prior to the effective date of this Chapter.

(Ord. 2004-19)

17.41.080 SIGN INSTALLATION AND MAINTENANCE

A. Installation.

1. All signs shall be mounted so that the method of installation is concealed.
2. Projecting signs shall be mounted so they generally align with others in the block.
3. All signs and all components thereof, including sign structures and sign faces, shall be kept neatly painted, in a good state of repair and in compliance with all building and electrical codes adopted by the City and the State. The City of Fruita may inspect any sign governed by this Chapter and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.
4. Owners of projecting signs extending over public right-of-way shall be required to maintain public liability insurance in an amount to be determined appropriate by the City of Fruita, in which the City of Fruita is named as an "additional insured."

B. Maintenance.

1. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign, including any illumination sources in a neat and orderly condition, and in good working order at all times, and to prevent the development of any rust, corrosion, rotting or other deterioration in the physical appearance or safety of such sign. The sign must also be in compliance with all building and electrical codes adopted by the City and the State.
2. The owner of any sign regulated by this Chapter shall be required to keep signs and supporting hardware, including temporary signs and time/temperature signs structurally safe, clean, free of visible defects and functioning properly at all times. Materials used to repair signs shall be equal to or better in quality of materials and design than the original sign.
3. The City of Fruita may inspect any sign governed by this Chapter and shall have the authority to order the painting, repair, alteration or removal of a sign which constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

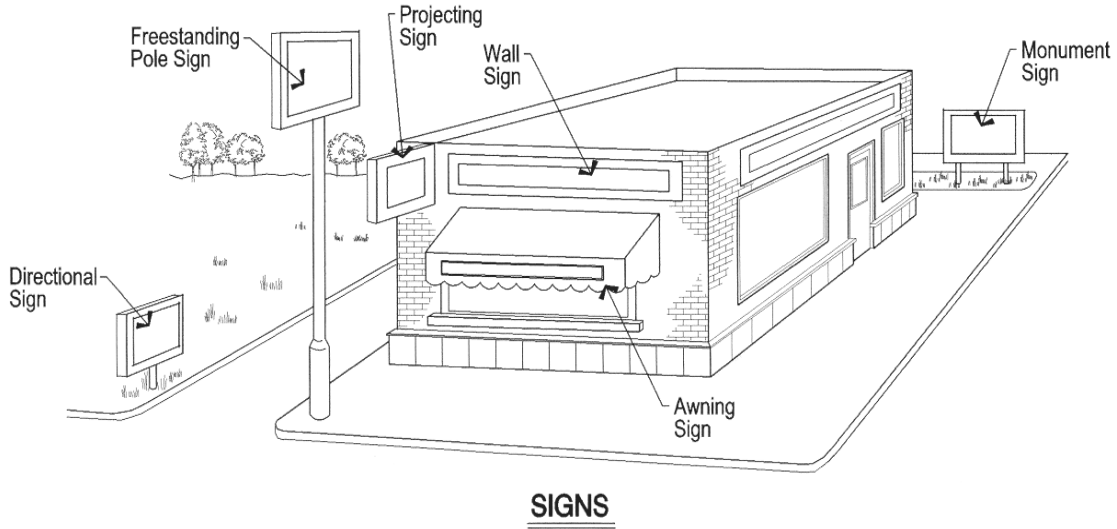
(Ord. 2004-19)

17.41.090 STANDARDS FOR SPECIFIC TYPES OF SIGNS

- A. Awning Signs. An awning sign is a wall sign which is painted, stitched, sewn or stained onto the exterior of an awning. An awning is a movable shelter supported entirely from the exterior wall of a building and composed of nonrigid materials except for the supporting framework.

Different Types of Signs

Figure 41-8



1. **Location.** Signs may be placed only on awnings that are located on first- and second-story building frontages, including those fronting a parking lot or pedestrian way. No awning sign shall project beyond, above or below the face of an awning.
 2. **Maximum area and height.** Sign area shall comply with the requirements established by Section 17.41.100, Sign Standards by Zone District. No structural element of an awning shall be located less than eight feet (8') above finished grade. Awnings on which awning signs are mounted may extend over a public right-of-way no more than seven feet (7') from the face of a supporting building. No awning, with or without signage, shall extend above the roof line of any building.
 3. **Lighting.** Awnings shall not be internally illuminated except as part of a creative sign. Lighting directed downwards that does not illuminate the awning is allowed.
 4. **Required maintenance.** Awnings shall be regularly cleaned and kept free of dust and visible defects.
- B. **Bus Bench and Shelter Signs.** Advertising signs, messages and panels affixed to bus benches and shelters. See Section 17.41.120 for requirements.
- C. **Canopy Signs.** A canopy sign is a wall sign that is permanently affixed to a roofed shelter attached to and supported by a building, by columns extending from the ground or by a combination of a building and columns.

1. Maximum area and height. Sign area shall comply with the requirements established by Section 17.41.100 (Sign Standards by Zone District). No canopy, with or without signage, shall extend above the roof line of any building. No canopy sign shall project above the top of the canopy upon which it is mounted. However, such signs may project horizontally from the face of a canopy the distance necessary to accommodate the letter thickness and required electrical equipment, but not more than twelve inches (12") (measured from the bottom of the sign). Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting wall signs. Under-canopy signs which are parallel to the face of the building shall be a minimum of eight feet (8') above grade and shall be deemed to be wall signs.
2. Lighting. Canopies shall not be internally illuminated except as part of a creative sign. Lighting directed downwards that does not illuminate the canopy is allowed.
3. Required maintenance. Canopies shall be regularly cleaned and kept free of dust and visible defects.

D. Freestanding Signs. A freestanding sign is a sign which is supported by one or more columns, uprights, poles or braces extended from the ground, or which is erected on the ground and shall also include a monument sign and pole signs but does not include a sign attached to a structure.

1. Location. The sign may be located only on a site frontage adjoining a public street. No freestanding sign in any zone district can be erected closer than eight feet (8') from any curblineline, nor closer than four feet (4') to any building. No freestanding signs in business and industrial districts may be located less than twenty-five feet (25') from any property line adjacent to a residential zone district boundary.
2. Maximum area and height. The sign shall comply with the height and area requirements established in Section 17.41.100, Sign Standards by Zone District.
3. Sign mounting. The sign shall be mounted on one or more posts or have a solid monument-type base. Posts shall not have a diameter greater than twelve inches (12").
4. Pole signs. Pole signs should not be so large as to obscure the patterns of front facades and yards.

E. Monument Signs. A monument sign is a permanent sign where the entire bottom of the sign is affixed to the ground, not to a building.

1. Location. The sign may be located only along a site frontage adjoining a public street.
2. Maximum area and height. The sign shall comply with the height and area requirements established in Section 17.41.100, Sign Standards by Zone District. The sign and berm together shall not exceed twelve feet (12') from the primary main street frontage of the lot.
3. Design. The design of a monument sign shall be consistent with the overall scale of the building. The design and placement of the sign shall not obstruct traffic safety sight distance areas. Project or subdivision monument signs shall contain only the name and address of the project or subdivision which it identifies.
4. Landscaping requirements. Landscaping shall be provided at the base of the supporting structure equal to twice the area of one face of the sign. For example, twenty square feet (20 sq. ft.) of sign area requires forty square feet (40 sq. ft.) of landscaped area. The Planning Commission may reduce or waive this requirement if it is determined that the additional landscaping would not contribute significantly to the overall aesthetic character of the project.

F. Off-Premises Signs. Off-premises signs, also known as off-site signs, are generally prohibited, except for those specific types of signs listed in this Section.

1. Business district identification signs. A business district identification sign is an off-premises sign for the identification of a specific business district or center identified in the Master Plan or a business improvement or redevelopment area approved by the City Council. Business district signs shall not:
 - a. Interfere with pedestrian or vehicular safety;
 - b. Detract from the pedestrian quality of the surrounding area; or
 - c. Add to an over-proliferation of signs on one property or in an area.

The owner of the sign shall enter into an agreement with the City of Fruita for funding the ongoing cleaning, maintenance, and repair of the sign.

2. Church and civic club off-premises signs. A church or civic club off-premises sign is an off-premises sign intended to direct people to the church or civic club and/or state meeting dates and times. Such signs shall not:
 - a. Interfere with pedestrian or vehicular safety;
 - b. Detract from the pedestrian quality of the surrounding area;

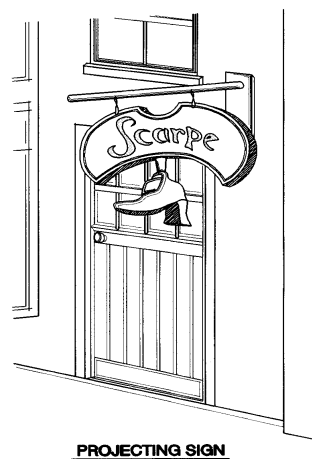
- c. Add to an over-proliferation of signs on one property or in an area;
- d. Be allowed for any organization that has not proven "non-profit" status;
- e. Measure more than four square feet (4 sq. ft.); or
- f. Number more than five (5) for any organization.

The owner of the sign shall be responsible for repair and maintenance of the sign.

G. Projecting Signs. A projecting sign is any sign supported by a building wall and projecting therefrom at least twelve inches (12") or more horizontally beyond the surface of the building to which the sign is attached.

1. Location. Projecting signs shall be placed only on a ground floor facade, except for businesses located above the ground level with direct exterior pedestrian access. Projecting signs shall be mounted so they generally align with others in the block. This helps to create a "canopy line" that gives scale to the sidewalk.
2. Maximum area and height. Projecting signs shall not be higher than the wall from which the sign projects if attached to a single story building, or the height of the bottom of any second story window if attached to a multi-story building. Projecting signs must have eight feet (8') clearance, and may not extend more than four feet (4') from the building wall except where the sign is an integral part of an approved canopy or awning. The size of projecting signs is limited to three feet (3') wide and six square feet (6 sq. ft.).
3. Sign structure. Sign supports and brackets shall be compatible with the design and scale of the sign.
4. Quantity. The number of projecting signs is limited to one per business. Projecting signs are not permitted in conjunction with wall-mounted or pole signs.

Figure 41-9



- H. Standard Brand-Name Signs. A standard brand-name sign is any sign devoted to the advertising of any standard brand-name commodity or service which is not the principal commodity or service being sold or rendered on the premises, or are not a part of the name or business concern involved.
1. Maximum area. Not more than twenty percent (20%) of the total allowable sign area for any permitted use shall be devoted to the advertising of any standard brand-name commodity or service.
- I. Time and/or Temperature Signs. A time and/or temperature sign is any sign intended to be displayed for a limited period of time and capable of being viewed from any public right-of-way, parking area or neighboring property.
1. Maximum area. Time and/or temperature signs which do not exceed ten square feet (10 sq. ft.) shall not be required to be included in the allowable sign area permitted in Section 17.41.060, Measurement of Sign Area and Height; Sign Setbacks; provided however, that any identification or advertising which is attached to or made part of the same sign structure shall be included in the allowable sign area for the premises.
 2. Design. The sign shall be designed in a manner that is compatible with other signs on the site and with the structure on which it is placed.
 3. Maintenance. It shall be the responsibility of the owner of such signs to maintain such signs and insure that they are kept accurate. If these conditions are not met, the sign shall be repaired or removed.
- J. Wall Signs. A wall sign is any sign painted on, incorporated in or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.
1. Location. The sign shall not be placed to obstruct any portion of a window, doorway or other architectural detail. Wall signs shall be located on buildings at the first floor level only for retail uses. No part of a wall sign shall be located more than twenty-five feet (25') above grade level.
 2. Maximum area and height. Wall signs shall not be higher than the eave line of the principal building. The sign shall comply with the height and area requirements established in Section 17.41.100, Sign Standards by Zone District.
 3. Projection from wall. No sign part, including cut-out letters may project from the surface upon which it is attached more than required for construction purposes and in no case more than twelve inches (12").

4. Design. Wall signs shall identify the individual business, building or building complex by name or trademark only.

K. Window Signs A window sign is a sign that is painted on, applied or attached to a window or that can be read through the window from the public right-of-way, placed at or below the second floor level.

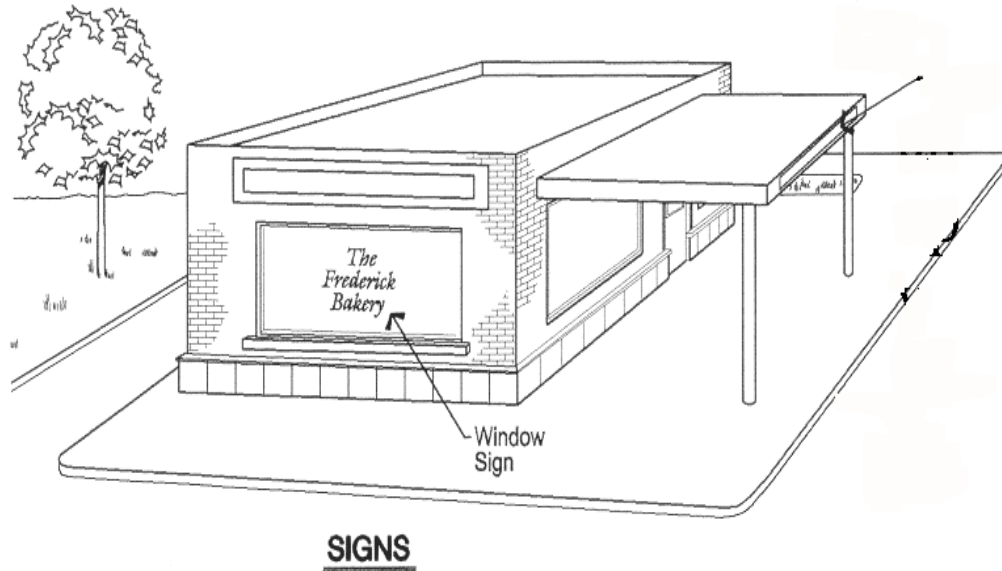


Figure 41-10

1. Maximum area. When a sign is displayed in a window and is visible beyond the boundaries of the lot upon which the sign is displayed, the total area of such sign shall not exceed:
 - a. Twenty-five percent (25%) of the window or door area at the ground floor level; and
 - b. Twenty-five percent (25%) of the total allowable sign area for the premises.
2. Lighting. All illuminated window signs shall be included in the total allowable sign area for the premises. Temporary posters announcing or advertising events sponsored by non-commercial organizations shall be exempt from limitations for window signs.

(Ord 2004-19)

17.41.100 SIGN STANDARDS BY ZONE DISTRICT

A. Signs in Residential and Community Services and Recreation Zone Districts.

Signs in the Rural Residential (RR), Community Residential (CR), Large Lot Residential (LLR), South Fruita Residential (SFR), and Community Services and Recreation (CSR) Zone Districts may include and shall be limited to:

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification Sign (Freestanding or Wall Sign)	1 per single family, duplex, mobile or manufactured home, unit	2 sq. ft.	4'	wall signs may be no higher than the eave line of the principal building
	1 per multi-family or triplex building	16 sq. ft.	6'	wall signs may be no higher than the eave line of the principal building
	1 per public or quasi-public use	20 sq. ft.	8'	wall signs may be no higher than the eave line of the principal building
	1 per subdivision entrance (monument sign only)	32 sq. ft. per face	6'	direct illumination only; when placed on subdivision or development entry features, only the sign face shall be used to calculate the area
Bed and Breakfast	1 per street frontage	4 sq. ft.	Below edge of roof, 4' freestanding	may be lighted; name and address of facility only
Child Care Center	1	10 sq. ft.	5'	unlighted

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Commercial Uses (legal nonconforming only)	1 per tenant space	1 sq. ft. for each lineal foot of building frontage; 25 maximum	6'	direct light source only; may not be illuminated between 11 p.m. and 6 a.m. if within 500' of existing residential structure
Home Occupation	1	2 sq. ft.	5'	unlighted
Temporary Signs	See Section 17.41.040, Exempt Signs			

B. Business and Commercial Signs in the Tourist Commercial Design (TCD), Downtown Commercial/Residential Design (DCRD), and Large Lot Commercial Design (LLCD) Zone Districts.

1. Types Allowed: Signs in the Downtown Commercial/Residential Design (DCRD), and the Tourist Commercial Design (TCD), Zone Districts are governed by this subsection and the requirements of Chapter 17.11. All signs allowed in residential zones are also allowed in the Tourist Commercial Design (TCD) Zone District.
2. Location and Size: Permitted signs may be anywhere on the premises except as specifically restricted in this Chapter (see specific sign type) and Chapters 17.07 and 17.11. The total amount of signage allowed on any property shall not exceed the sign allowance as calculated in Section 17.41.060. No single sign may be larger than three hundred square feet (300 sq. ft.). No projecting sign may exceed the requirements in subsection 17.41.090(G). The area calculation contained below shall not include off-premises signs.
3. Illumination: Unless otherwise specifically prohibited, all of the following signs may be illuminated as permitted in this Chapter.
4. Wall Signs:
 - a. The sign allowance shall be calculated on the basis of the area of the one building facade which is most nearly parallel to the street it faces. Each building facade which faces a dedicated public street shall have its own separate and distinct sign allowance.

- b. In the event a building does not have frontage on a dedicated public street, the owner of the building may designate the one building facade which shall be used for the purpose of calculating the sign allowance. In the event the only building facade which faces on a dedicated street contains no commercial display area, the property owner may designate another building facade on the building on the basis of which the total sign allowance shall be calculated.
- c. Two square feet (2 sq. ft.) of sign area shall be allowed for each linear foot of building facade for wall signs. Show window signs in a window display of merchandise when incorporated with such display will not be considered part of the total sign allowance.
- d. On any building which allows wall signs and projecting signs, a maximum of two (2) of these types may be used. If a wall sign and a projecting sign are used, the allowance for the projecting sign shall be subtracted from the wall sign allowance.

5. Projecting Signs:

- a. Total area per sign face shall not exceed one-half square foot ($\frac{1}{2}$ sq. ft.) per linear foot of building facade. If the projecting sign is the only sign mounted on the building, it need not be less than six square feet (6 sq. ft.) per face.
- b. On places of public entertainment such as theaters, arenas, meeting halls, etc., where changeable copy signs are used which project over a public right-of-way, the projection may be one-half foot ($\frac{1}{2}$ ') for each linear foot of building frontage provided that the sign does not extend further than four feet (4') back of the curb face.

6. Free Standing Signs:

- a. No more than one (1) free standing sign shall be permitted for any parcel for each street frontage. The sign allowance per frontage can only be used on that frontage and shall not be transferred to any other frontage.
- b. Maximum sign allowance shall be calculated by the linear front feet of property fronting on a public right-of-way in conformance with the following:

- i. Large Lot Commercial Design (LLCD) Zone District:

Two traffic lanes: Maximum area of sign face per front linear footage of property - .75 square feet; maximum height - 25 feet.

More than two traffic lanes: Maximum area of sign face per front linear

footage of property - 1.5 square feet; maximum height - 40 feet.

ii. Tourist Commercial Design (TCD) Zone District:

One monument sign per parcel per lot with street frontage.

iii. Downtown Commercial/Residential Design (DCRD) Zone District:

Signs allowed are those described in Section 17.11.020(H).

- c. Signs may be installed at the street right-of-way line but no part of the sign shall project into the public right-of-way line; if the existing street right-of-way width is less than that required in this Title, the distance shall be measured from the line of such right-of-way boundary as required by this Title rather than from the existing right-of-way line.
- d. On a corner lot a freestanding sign shall not be placed within fifteen feet (15') of the intersection of the two (2) street frontage property lines unless free air space is maintained between a point thirty-six inches (36") above street elevation and a point seventy-two inches (72") above street elevation. A single pipe support with no sign structure or copy shall not be considered a violation of the free air space requirement.
- e. When electrical service is provided to freestanding signs, all such electrical service shall be underground.

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification Sign (Freestanding, Wall, Window, Awning, Canopy, Projecting)	Monument sign: 1 per parcel, per street frontage	120' per face	8'	Monument signs only allowed as free standing signs and not in the Historic Downtown area (the lots fronting on Circle Park and fronting on Aspen Ave. from Circle Park to Peach St.)
	Wall sign: 1 per individual tenant building frontage	.75 sq. ft. per linear foot of building facade per 2 traffic lanes; more than 2 traffic lanes: 1.5 sq. ft. per each linear foot of building facade	n/a	The sum of all wall signs on a give wall shall not exceed 5% of the wall area.

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
	Canopy or awning sign: 1 per individual building tenant		Minimum 8' above finished grade	

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification Sign (Freestanding, Wall, Window, Awning, Canopy, Projecting)	Monument sign: 1 per parcel, per street frontage	120' per face	8'	Monument signs only allowed as free standing signs and not in the Historic Downtown area (the lots fronting on Circle Park and fronting on Aspen Ave. from Circle Park to Peach St.)
	Wall sign: 1 per individual tenant building frontage	.75 sq. ft. per linear foot of building facade per 2 traffic lanes; more than 2 traffic lanes: 1.5 sq. ft. per each linear foot of building facade	n/a	The sum of all wall signs on a give wall shall not exceed 5% of the wall area.
	Canopy or awning sign: 1 per individual building tenant		Minimum 8' above finished grade	
	Window sign: 1 per business	25% of window or door area	n/a	May be placed on the window of door and cannot exceed 25% of the total allowable sign area for the premises.
	Information signs	5 sq. ft.	6'	Permitted at rear and loading door entrances
Time and/or Temperature	1	10 sq. ft.	6' monument	Identification or advertising that is part of sign structure must be included in total allowable sign area.
Standard Brand Name	Varies	See comments	6' monument	Not more than 20% of the total allowable sign area
Temporary Signs	See Section 17.41.040, Exempt Signs			

C. Signs in the Limited Industrial and Research and Development (LIRD) Zone District.

Signs in the Limited Industrial and Research and Development (LIRD) Zone District may include and shall be limited to :

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification Sign (Freestanding, Wall)	1 project monument sign per entrance	64 sq. ft. per face	6'	no pole signs are permitted
	Wall sign: 1 per individual tenant building frontage	16 sq. ft.	n/a	may not exceed one per tenant or one per entry; must be flush mounted; cannot be 25' above grade level or higher than the eave line of the principal building
	Information signs	5 sq. ft.	6'	permitted at rear and loading door entrances
	Monument signs adjacent to Interstate or State Highway: 1 every 150' of frontage	64 total sq. ft.	15'	permitted along with entry monument sign; can be no closer than 150' from each other
Temporary Signs	See Section 17.41.040, Exempt Signs			

D. Signs in Agricultural Zones.

Signs in the Rural and Agricultural (RA) and Rural Residential (RR) Zone Districts may include and shall be limited to:

Type of Sign	Number of Signs	Maximum Area (sq. ft.)	Maximum Height of Freestanding Signs	Comments
Identification Sign (Freestanding, Wall)	1 per principal use	48 sq. ft. per face	12'	minimum setback equal to height of sign; minimum spacing 50' between signs on separate frontage, 300' between signs on same frontage
Temporary Signs	See Section 17.41.040, Exempt Signs			

E. Planned Unit Development and Conditional Use Signs. Owners of properties in a Planned Unit Development, or a conditional use site shall have proposed signs reviewed and approved as part of the P.U.D. development plan or conditional use permit. Variance of the maximum total surface area of signs shall not be permitted, but the maximum sign allowance for the entire development or use may be aggregated and the total allowance redistributed.

F. Sign Design. Section 17.41.070 contains standards governing sign illumination and other aspects of sign design

(Ord 2004-19)

17.41.110 CREATIVE SIGNS

- A. Purpose. This Section establishes standards and procedures for the design, review and approval of creative signs. The purposes of this creative sign program are to:
1. Encourage signs of unique design, and that exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
 2. Provide a process for the application of sign regulations in ways that will allow creatively designed signs that make a positive visual contribution to the overall image of the City of Fruita, while mitigating the impacts of large or unusually designed signs.
- B. Applicability. An applicant may request approval of a sign permit under the creative sign program to authorize on-site signs that employ standards that differ from the other provisions of this Chapter, but comply with the provisions of this Section.
- C. Approval Authority. A sign permit application for a creative sign shall be subject to approval by the Planning Commission.
- D. Application Requirements. A sign permit application for a creative sign shall include all information and materials required by the City of Fruita, and the permit fee as determined by resolution of the City Council.
- E. Design Criteria. In approving an application for a creative sign, the Planning Commission shall ensure that a proposed sign meets the following design criteria:
1. Design quality. The sign shall:
 - a. Constitute a substantial aesthetic improvement to the site and shall have a positive visual impact on the surrounding area;
 - b. Be of unique design, and exhibit a high degree of thoughtfulness, imagination, inventiveness, and spirit; and
 - c. Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, and proportion.
 2. Contextual criteria. The sign shall contain at least one (1) of the following elements:
 - a. Classic historic design style;
 - b. Creative image reflecting current or historic character of the City of Fruita;
 - c. Symbols or imagery relating to the entertainment or design industry; or

- d. Inventive representation of the use, name or logo of the structure or business.
3. Architectural criteria. The sign shall:
- a. Utilize and/or enhance the architectural elements of the building; and
 - b. Be placed in a logical location in relation to the overall composition of the building's facade and not cover any key architectural features/details of the facade.

(Ord. 2004-19)

17.41.120 BUS SHELTER AND BENCH ADVERTISING.

- A. Advertising - Bus Shelters. Advertising on or incorporated within County approved transit shelters is permitted as long as the following requirements are met:
- 1. There is a written agreement between the bus shelter provider and the County and all of the required permits have been obtained from the City of Fruita and Mesa County.
 - 2. The bus shelters are located only at County designated bus stops on County designated bus routes. As routes or stops change, bus shelters that are no longer on a designated route or bus stop must be removed within thirty (30) days following notice by the County and/or the City of Fruita requesting removal.
 - 3. Bus shelters are also subject to the following requirements:
 - a. Advertising shall be limited to two side panels on the bus shelter, each not more than forty-eight inches (48") wide and seventy-two inches (72") high; the advertising panels may be illuminated by "back lighting";
 - b. A third advertising panel may be provided along the rear of the bus shelter for public service messages or other public purposes, as specified in the written agreement with the County;
 - c. A proposed maintenance schedule shall be included in the written agreement between the bus shelter provider and the County. The permittee shall be responsible for all maintenance of the shelter including general repair, painting, removal of graffiti, and maintenance of lawn or landscaping around the shelter area. Failure to properly maintain the shelter or shelter area is cause for removal;
 - d. All bus shelters shall be located on and anchored to a concrete pad or equivalent;
 - e. Shelters should be located in the public right-of-way; in situations where the

shelter is required to be located outside the public right-of-way, the Community Development Department may allow such location, provided written authorization of the owner of the private land has been obtained and any costs associated with obtaining the authorization has been paid;

- f. A planning clearance for a building permit shall be obtained for each bus shelter; all requirements of the Americans With Disabilities Act must be met;
- g. A site plan of the bus shelter, meeting the requirements of this Section, shall be submitted to the Community Development Department for review and approval of a planning clearance prior to construction. Additionally, all requests to locate a shelter on State highways shall be submitted to the Colorado Department of Transportation (C.D.O.T.) for review and approval;
- h. Where curb and gutter are present and the posted speed limit is 35 miles per hour or less, the front of the shelter shall be set back a minimum of five feet (5') from the curb, unless otherwise authorized by the County and the Community Development Department; in no case shall the setback be less than three and one-half feet (3 ½') from the curb;
- i. Where there is no curb and gutter or the posted speed limit is greater than 35 miles per hour the front of the shelter shall be set back a minimum of ten feet (10') from the edge of pavement, unless otherwise authorized by the Community Development Department; in no case shall the setback be less than five feet (5') from the edge of pavement;
- j. The shelter shall not be located in a way which impedes pedestrian, bicycle, wheelchair, or motor vehicle travel, including the limitation of vehicular sight distance; vertical supports for the shelter shall be located no closer than one foot (1') from any sidewalk;
- k. Bus shelters with advertising are limited to Tourist Commercial Design (TCD) Zone District and Limited Industrial and Research and Development (LIRD) Zone District, and are allowed only on major collector, minor arterial, and major arterial streets and roads, as designated in the Grand Valley Circulation Plan and the City of Fruita Community Plan 2020, with the exception that such advertising bus shelters and benches shall not be allowed in historic downtown Fruita (the lots fronting on Circle Park and East Aspen Ave. from Circle Park on the west to Elm Street on the east), Mesa County School District No. 51 property, and on property operated by the Museum of Western Colorado; and
- l. Shelters located in the Tourist Commercial Design (TCD) Zone District are subject to the design standards of such District. (See Chapter 17.11.)

B. Advertising - Bus Benches. Advertising on bus benches is permitted as long as the following

requirements are met:

1. There is a written agreement between the bus bench provider and the County and all of the required permits have been obtained from the County and City.
2. A single bench may be located only at County designated bus stops along a County designated bus route, subsequent to issuance of a permit by the County and Community Development Department. A second bench may be allowed based on ridership data which demonstrates such a need. As routes or stops change, bus benches that are no longer along a designated route or bus stop must be removed within thirty (30) days following notice by the County and City.
3. Benches are also subject to the following conditions:
 - a. A site plan of the bench location, meeting the requirements of this Section, shall be submitted to the County and the Community Development Department for review and approval of planning clearance prior to placement of any bench. Additionally, all requests to locate a bench on State highways shall also be submitted to the Colorado Department of Transportation (C.D.O.T.) for review and approval;
 - b. Benches should be located within the public right-of-way; in situations where the bench is required to be located outside the public right-of-way the County and Community Development Department may allow such encroachment if it is the minimum amount necessary to site the bench, written authorization from the owner of the private land has been provided, and any costs associated with obtaining the authorization has been paid;
 - c. The bench may be oriented towards approaching traffic at an angle not to exceed thirty degrees (30°) from parallel to the street frontage;
 - d. Where curb and gutter are present and the posted speed limit is 35 miles per hour or less, the front of the bench shall be set back a minimum distance of five feet (5') from the curb. The five feet (5') minimum distance may not be reduced;
 - e. Where no curb and gutter is present or the posted speed limit exceeds 35 miles per hour, the bench may be located at a distance no closer than ten feet (10') from the edge of pavement, unless otherwise authorized by the County and Community Development Department; in no case shall the distance be reduced to less than five feet (5') from the street pavement. Bus benches must be located within twenty feet (20') of a bus stop. To the greatest extent possible, benches should not be located within the parkway between the road pavement/curb and sidewalk;
 - f. The advertising panel shall be limited to a single face which must be oriented

to the street. The sign face shall not exceed twelve square feet (12 sq. ft.) in size with a maximum sign height of two feet (2'); the sign shall be non-illuminated and non-reflective;

- g. The bench may not be located in a manner which impedes pedestrian, bicycle, wheelchair, or vehicle travel including the limitation of vehicular sight distance. The bench shall be set back a minimum distance of one foot (1') from an adjacent sidewalk at it's nearest point;
- h. The permittee shall be responsible for all maintenance of the bench including general repair, painting, removal of graffiti, and maintenance of lawn or landscaping around the bench area. Failure to properly maintain the bench or bench area is cause for removal;
- i. Benches containing advertising are limited to major collector, minor arterials, and major arterials, as designated in the Grand Valley Circulation Plan and the City of Fruita Community Plan 2020;
- j. The design of benches obtained by the provider subsequent to the adoption of this Chapter shall be approved by the City;
- k. Bus benches with advertising are limited to Tourist Commercial Design (TCD) and Limited Industrial and Research and Development (LIRD) Zone Districts and are allowed only on major collector, minor arterial, and major arterial streets and roads, as designated on the Grand Valley Circulation Plan and the City of Fruita Community Plan 2020, with the exception that such advertising benches shall not be allowed in the Downtown Commercial/Residential Design (DCRD) Zone District (the lots fronting on Circle Park and East Aspen Ave. from Circle Park on the west to Elm Street on the east), Mesa County School District No. 51 property, and on property operated by the Museum of Western Colorado; and
- l. The Community Development Department may add additional requirements for design and placement of benches as necessary based on the site location including, but not limited to the following:
 - i. Construction of a concrete pad sufficient in size to accommodate the bench supports and two feet (2') of foot space along the front of the bench; and
 - ii. Securing the bench to concrete pads utilizing a "break-away" anchor design.

(Ord 2004-19)

Chapter 17.43
TRANSPORTATION SYSTEM PLANNING AND DEVELOPMENT

Sections:

- 17.43.010 Street System Standards; General Provisions**
- 17.43.020 Private Street Construction and Inspection**
- 17.43.030 Planning Principles for Local Circulation Systems**
- 17.43.040 Minimum Requirements for Local Circulation Systems**
- 17.43.050 Access to Private Property**
- 17.43.060 General Access Standards**
- 17.43.070 Access Control Standards for Arterial Streets**
- 17.43.080 Access Control Standards for Major Collector and Minor Collector Streets**
- 17.43.090 Access Control Standards for Local Streets**
- 17.43.100 Intersection Requirements**

17.43.010 TRANSPORTATION SYSTEM STANDARDS; GENERAL PROVISIONS.

- A. Legislative Authority. The City Council is authorized to regulate vehicular access to or from any public street within the city in order to protect the public health, safety and welfare, to maintain efficient traffic flow, to maintain proper street right-of-way drainage and to protect the functional levels of public streets. The City Council is also authorized to prohibit anyone from causing or permitting a street to become obstructed or damaged in any way, or permitting water, wastewater or other substance from any ditch, lateral, canal, reservoir, rain or flume or other artificial course to flow across such a street.
- B. Design Specifications. All streets within the City of Fruita shall be constructed in accordance with the latest version of the City of Fruita Design Criteria and Construction Specifications Manual.
- C. Roadway Classifications. The public street systems within the City of Fruita consist of four roadway classifications as defined in the Fruita Area Street Classifications & Traffic Control Plan document. These four roadway classifications include arterial, major collector, minor collector, and local street designations. Alternate street sections for minor collector and local streets internal to a subdivision will be considered, but should meet the minimum lane widths identified in the City of Fruita Design Criteria and Construction Specifications Manual.
- D. Permits Required.
 - 1. An excavation and right-of-way permit, issued by the City of Fruita, is required for all work within a city right-of-way, including alleys, and for all work adjacent to a city right-of-way

where use of the right-of-way is needed for construction vehicles, staging of materials, or safety barricades. For the purposes of this Section, work is defined as the installation, modification, or repair to any utilities, pavement, curb, gutter, sidewalk, or any alteration of the ground surface within or adjacent to the public right-of-way for the purpose of installing any improvement which will affect drainage patterns or sight distances. The requirements of this Section apply to all projects or construction, and to all individuals and entities, including utility companies which may hold a franchise from the city. A performance bond or other security approved by the city may be required to ensure conformance with permit provisions. Engineered plans prepared by a Colorado registered professional engineer may also be required. All construction shall be in accordance with plans, specifications and details approved by the city. Approved permits shall not be changed without the written consent of the city.

2. Exceptions. The following work and/or projects are exempt from the permit requirements of this Chapter:
 - a. City capital improvement projects for which construction drawings have been issued and approved by the city and for which a project specific traffic control plan has been approved by the city.
 - b. Work performed in or adjacent to a County, State, or federal, right-of-way shall obtain applicable permits from the appropriate governing agency.

E. Street Maintenance - Notice. The city shall not be responsible for the maintenance of public streets in new subdivisions and developments until the street improvements are approved and accepted by the city. In the event such street improvements have not been accepted, the city may post at all entrances to the subdivision or other development a sign which states: "Notice: Streets within this subdivision have not been accepted by the city for maintenance".

17.43.020 PRIVATE STREET CONSTRUCTION AND INSPECTION. Construction of private streets within the city are not preferred and shall be considered on an individual basis. Private streets shall be subject to the same process and design standards for a public street. Private streets will not be maintained by the city.

17.43.030 PLANNING PRINCIPLES FOR LOCAL CIRCULATION SYSTEMS. Basic considerations in the design of local circulation systems shall recognize the following factors: (1) safety for both vehicular and pedestrian traffic; (2) efficiency of service for all users; (3) liability especially as affected by traffic elements in the circulation system; and (4) economy of both construction and the use of land. Design of streets should minimize maintenance costs.

Each of the following principles is an elaboration on one or more of these four (4) factors. The principles are not intended as absolute criteria, since instances may appear where certain principles conflict. The principles should, therefore, be used as guides to proper systems layout.

- A. Ensure Vehicular and Pedestrian Access and Provide Utility Access. The primary function of local streets is to serve abutting properties. Street widths, placement of sidewalks, patterns of streets and the number of intersections are related to safe and efficient access to abutting lands.
- B. Control Access to Collectors and Arterials. Local circulation systems and land development patterns should not detract from the efficiency of peripheral collector and arterial streets. Ideally, land development should occur so that no lots require direct access to collector or arterial routes. The number of access points between the local circulation system and the arterial system should be minimized. Intersections along collector and arterial routes should be properly spaced for efficient signalization and traffic flow.
- C. Discourage Speeding. Residential streets should be designed to discourage fast movement of vehicular traffic and incorporate traffic calming measures where appropriate.
- D. Interconnectivity. All developments should be planned to provide both vehicle and pedestrian/bicycle connectivity to adjacent undeveloped properties and to the existing circulation system. Wherever possible, street stubs to adjacent parcels, and connections for pedestrian/bicycle paths shall be incorporated into the design of the development.

17.43.040 MINIMUM REQUIREMENTS FOR LOCAL CIRCULATION SYSTEMS. In addition to the planning principles outlined in Section 17.43.030, the minimum requirements of this Section shall apply to the design of new streets. Additional specific requirements can also be found in the Mesa County Standard Specification for Road and Bridge Construction. Where conflicts exist between this Section and provisions of the Mesa County Standard Specification for Road and Bridge Construction, the provisions of this Section shall apply.

- A. Development Access. Any development exceeding two hundred fifty (250) average daily trips (ADT) or twenty-five (25) units shall have a minimum of two (2) fully platted ingress/egress points (dedicated rights-of-way), or one (1) fully platted ingress/egress point plus a secondary access point for emergency vehicles. Any development exceeding three hundred fifty (350) ADT or thirty-five (35) units shall have a minimum of two (2) fully platted ingress/egress points. Any development exceeding seven hundred fifty (750) ADT or seventy-five (75) units shall have a minimum of three (3) fully platted ingress/egress points.
- B. Phased Developments. For phased developments, secondary access shall be installed at or prior to the time at which the total number of units served by a single access exceeds twenty-five (25) units.

- C. Courts and Cul-de-sacs. A cul-de-sac shall not exceed two hundred fifty (250) ADT and in no case should its length exceed six hundred (600) feet, unless a secondary emergency access is provided, in which case the cul-de-sac length may be increased to one thousand (1000) feet. Dead end streets or cul-de-sacs without bulbs shall not be permitted. Streets provided or designed for future connection to adjacent areas shall be improved. Such connections which provide access to structures shall have dedicated cul-de-sacs. A cul-de-sac bulb which may be vacated in the future shall be improved to paved standards if access is provided to dwellings or other structures. Cul-de-sac bulbs not providing access to dwellings or other structures shall be improved with a gravel surface and barricades may be required.
- D. Street Stubs. Proposed street stubs to adjacent undeveloped property may be considered in meeting the requirements of subsections (B) and (C) of this Section. The City Council shall have sole discretion to make this determination based on a consideration of current information pertaining to the potential and timing of the development of adjacent parcels.
- E. Urban and Rural Street Sections Based on Lot Size. Urban street sections, which include concrete curb and gutter, and either detached or attached sidewalks on both sides, are required in all residential and commercial developments serviced by public streets, wherein the minimum lot size in the development is less than two (2) acres. For residential developments wherein the minimum lot size in the development is equal to or greater than one-half (½) acre, the sidewalk on one (1) side of the street may be deleted at the discretion of the City Council. Rural street sections without curb and gutter, or sidewalks, are allowed only in developments having a minimum lot size of two (2) acres or greater.

17.43.050 ACCESS TO PRIVATE PROPERTY. In order to qualify as access to property within the city, a street shall be one (1) of the following:

- A. Public Maintained Street. A public street maintained by the city, the Colorado Department of Transportation (C.D.O.T.) or other public agencies. All new driveways or other access points to a public street shall be designed in accordance with the Fruita Design Criteria and Construction Specifications.
- B. Private Street Not Maintained by a Public Agency. Such a street shall be constructed according to the provisions of this Chapter and shall be owned by a homeowners association or other private entity that will take responsibility for maintenance. A maintenance waiver shall be signed by all lot owners accessing the street acknowledging that the city does not maintain the street, and will be recorded by the city in the records of the Mesa County Clerk and Recorder. The right-of-way widths and level of improvement of such street shall be the same as that of a public street.
- C. Shared Drives. The level of improvements required for shared driveways shall be designed according to the following guidelines.

1. Widths of Shared Drives:
 - a. Less than twenty (20) feet: A maximum density of two (2) units will be allowed on the shared driveway. Minimum improved travel surface roadway width shall be considered on an individual basis.
 - b. Twenty (20) feet to twenty-six (26) feet: A maximum density of four (4) units will be allowed on the shared driveway. Minimum improved travel surface roadway width of eighteen (18) feet.
2. Access Requirements. The access requirements for shared driveways are:
 - a. Garages and other parking facilities accessing shared driveways shall be located on the lot in such a manner that movement into or out of the garage or parking area will not encroach on adjacent private property or parking areas.
 - b. No parking is allowed on shared driveways. For all lots accessing from a shared driveway, one additional off-street car parking space must be provided.

17.43.060 GENERAL ACCESS STANDARDS.

- A. Purpose. The lack of adequate access management to the city's street system and the proliferation of driveways and other access approaches can become a major contributor to traffic accidents and a major factor contributing to the functional deterioration of city streets. As new access approaches are constructed, the traffic speed and capacity of streets decrease, while congestion and hazards to the traveling public increase. As a result, significant amounts of tax dollars can be spent to improve city streets and provide additional operational capacity and safety.

The objective of these standards is to both maintain safety and preserve street capacity while at the same time allowing accessibility to adjacent land uses, in a manner consistent with the functional classifications of roads.

- B. Standards.

1. In all areas where curb and gutter are provided, all driveways accessing single family building lots shall conform to the standard construction details published by the city. In areas where curb and gutter are not provided, all driveways shall have a minimum surface width of eighteen (18) feet at the edge of pavement, or drive surface, and taper to a minimum surface width of twelve (12) feet at a distance of six (6) feet from the edge of the drive, and maintain this surface width to the edge of the city street or right-of-way.

2. A paved surface with a minimum of twelve (12) feet in width shall be available to fire, ambulance and police vehicles to within one hundred (100) feet of the principal entrances to all principal buildings.
3. In the Rural Estate (RE) and Agricultural Residential (AR) zones for lots three (3) acres in size or larger, access surfacing material outside of the public right-of-way may be six (6) inches Class 6 aggregate base course, or other material such as recycled asphalt, so long as the surfacing material is treated to maintain a dust free condition.
4. The maximum total width of access(s) serving any one (1) parcel shall be limited to thirty-two (32) feet.
5. Access grades may not exceed ten (10) percent. The grade of the entrance and exit shall slope downward and away from the street surface at the same rate as the normal cross slope and for a distance equal to the width of the shoulder, but in no case less than ten (10) feet from the pavement edge.
6. All driveways and approaches shall be constructed so that they do not interfere with the drainage system of the public street or highway. The applicant will be required to provide, at its own expense, drainage structures at entrances and exits which will become an integral part of the existing drainage system. The dimensions of all drainage structures shall be approved by the city prior to installation.
7. No more than one (1) access shall be allowed to any parcel or lot having an area of one (1) acre or less. Additional accesses to parcels or lots having an area of greater than one (1) acre shall be subject to all of the provisions of Chapter 17.07 and this Chapter 17.43.
8. An access approach that has a gate across it shall be designed so that the longest vehicle using it can completely clear the traveled way of the public street when the gate is closed.
9. A parcel or lot fronting on two (2) public streets with identical functional classifications shall take access from the street with the lowest twenty (20) year projected traffic volume. Residential lots fronting on two local roads do not necessarily have to take access from the street with the lowest twenty (20) year projected traffic volume.

17.43.070 ACCESS CONTROL STANDARDS FOR ARTERIAL STREETS.

- A. Private Direct Access. Private direct access to arterials is discouraged. Private direct access to such arterial streets shall be permitted only when the property in question has no other reasonable access to the city's street system. When direct access is necessary, the following shall be required:

1. Access shall continue until such time that some other reasonable access to a lower functional category street is available and permitted. Access permits issued by the city or by the Colorado Department of Transportation shall specify the future reasonable access location and, if known, the date the change will be made. This provision shall not be construed as guaranteeing a public street access. Subdivisions of land shall make provisions for all parcels or lots in the area to have access to a lower functional classification street in the future. Back-out driveways shall not be allowed.
2. No more than one (1) access approach shall be provided to an individual parcel or to contiguous parcels or lots under the same ownership unless it can be shown that additional accesses would be significantly beneficial to the safety and operation of the street or the local circulation system. Subdivision of a parcel or lot shall not result in additional access unless shown as necessary for safety or operational reasons.
3. On two-lane arterials, access approaches may be limited to right turns only if the approach is within five hundred (500) feet, measured near curb line to near curb line, from the nearest signalized intersection. Under no circumstances may a driveway be closer than one hundred (100) feet to the curb line of the intersecting street when measured from the driveway edge nearest the intersecting street.
4. Access approaches on multi-lane divided roads shall be limited to right turns only unless either: (1) the approach does not have the potential for signalization; or (2) it can be shown that allowing left turns would significantly reduce congestion and safety problems at a nearby intersection; or (3) there are no intersections, existing or planned, which allow a U-turn, and left turns can be safely designed without signalization; or (4) a painted median is present which allows continuous turning storage.

B. Spacing and Signalization Shall be Considered. In areas where higher traffic volumes are present or growth is expected in the foreseeable future that will require signalization, it is imperative that the location of all public approaches be planned carefully to ensure good signal progression. An approved traffic engineering analysis shall be made to properly locate all proposed connecting access approaches that may require signalization.

17.43.080 ACCESS CONTROL STANDARDS FOR MAJOR COLLECTOR AND MINOR COLLECTOR STREETS.

A. Private Direct Access. No more than one (1) access approach shall be provided to an individual parcel/lot or to contiguous parcels/lots under the same ownership unless it can be shown that additional access approaches would not be detrimental to the safety and operation of the public street, and are necessary for the safety and efficient use of the property. Back-out driveways shall not be allowed on Major Collector streets. Under no circumstances may a driveway be closer than one hundred (100) feet to the flow line or edge of the traveled way of the intersecting street when

measured from the driveway edge nearest the intersecting street. Subdivision of a parcel shall not result in additional access unless shown as necessary for safety or operational reasons. Shared driveways are encouraged on all collector or larger roads to minimize access points.

- B. Spacing of Intersecting Streets. Spacing of major intersecting streets should be at one-quarter (1/4) mile intervals plus or minus two hundred (200) feet. Spacing of other streets where intersection channelization improvements are not required in accordance with the Fruita Design Criteria and Construction Standards shall be at intervals no less than three hundred (300) feet, providing that reasonable access cannot be obtained from lower classification streets.
- C. Separation of Driveways. Individual driveways shall have a minimum edge to edge separation distance of one hundred (100) feet. Where the lot dimensions or the location of existing driveways prevent one hundred (100) feet separation, the minimum separation distance shall be the maximum achievable, as determined by the City Engineer on a case-by-case basis.

17.43.090 ACCESS CONTROL STANDARDS FOR LOCAL STREETS.

- A. Private Direct Access. Accesses located near an intersection of two (2) local streets shall be constructed so that the edge of the access nearest the intersection is no less than fifty (50) feet from the flowline of the intersecting street. Where the intersecting street is classified as a collector or arterial, setbacks for accesses shall be no less than eighty (80) feet from the flowline of the intersecting street. All accesses are subject to the sight distance requirements of subsection 17.43.090.
- B. Spacing of Intersecting Streets. Intersecting public and private streets shall be located opposing where possible or be offset by a minimum of one hundred fifty (150) feet when measured from near curb line to near curb line
- C. Separation of Driveways. Individual driveways shall have a minimum edge to edge separation distance of ten (10) feet. Driveways cannot be located closer than five (5) feet to any side property line.

17.43.100 INTERSECTION REQUIREMENTS.

- A. General. Most streets intersect at grade. To minimize potential conflicts and to provide adequately for the anticipated crossing and turning vehicle movements, geometric design of the intersection at grade shall be given careful consideration. The geometric design components of all intersections, including but not limited to the location, approach radii, and sight distance, shall be designed in accordance with the Design Criteria and Construction Standards.

Chapter 17.45
FLOOD WAYS, FLOODPLAINS, AND FLOOD HAZARD PREVENTION

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- 17.45.260 Flood ways**
- 17.45.270 Manufactured and Mobile Home Standards**

PART V. DEFINITIONS

PART I. DESCRIPTION AND PURPOSES

17.45.010 STATUTORY AUTHORIZATION. The Legislature of the State of Colorado has, in Section 31-23-301 C.R.S., authorized municipalities to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry by regulating, restricting and limiting land uses in order to lessen or avoid the hazards to persons and damage to property resulting from the accumulation of storm or flood waters.

17.45.020 FINDINGS OF FACT.

- A. The flood hazard areas of Fruita are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

17.45.030 PURPOSES. The purposes of this Chapter are to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- A. To protect human life and health;
- B. To minimize expenditure of public money for costly flood control projects;
- C. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To minimize prolonged business interruptions;
- E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and wastewater lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

- G. To ensure that potential buyers are notified that property is in an area of special flood hazard; and
- H. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

17.45.040 METHODS OF REDUCING FLOOD LOSSES. In order to accomplish its purposes, this Chapter includes methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas; and
- F. Preventing or restricting development or construction where ingress and egress to a parcel of land is potentially affected by flood waters, or are within areas of special flood hazard as defined in this Chapter.

PART II. GENERAL PROVISIONS

17.45.050 LANDS TO WHICH CHAPTER PROVISIONS APPLY. This Chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Fruita.

17.45.060 BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD. The areas of special flood hazard are identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the City of Fruita," dated July 15, 1992, with an accompanying Flood Insurance Rate Map (FIRM) which is adopted by reference and declared to be part of this Chapter. The Flood Insurance Study and FIRM are on file at City of Fruita, 325 East Aspen, #155, Fruita, Colorado.

17.45.070 COMPLIANCE REQUIRED. No structure or land shall hereafter be constructed,

located, extended, converted, or altered without full compliance with the terms of this Chapter and the other applicable regulations.

17.45.080 ABROGATION AND GREATER RESTRICTIONS. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

17.45.090 INTERPRETATION. In the interpretation and application of this Chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under State statutes.

17.45.100 LIMITATIONS OF LIABILITY. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Fruita, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

PART III. ADMINISTRATION

17.45.110 ESTABLISHMENT OF A FLOODPLAIN DEVELOPMENT PERMIT. A floodplain development permit shall be obtained before construction or development begins, including any grading or other earthwork, within any area of special flood hazard established in Section 17.45.060. Application for a development permit shall be made on forms furnished by the floodplain administrator, and may include, but not be limited to:

- A. Plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. All elevations shall be given in 1988 North American Vertical Datum (NAVD) consistent with Mesa County Survey Monument (MCSM) standards, and a correction factor shall be provided/calculated to equate reference elevations listed on the FIRM maps to current NAVD88 elevations. Specifically, the following information is required:

1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
2. Elevation in relation to mean sea level to which any structure has been flood proofed;
3. Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in Section 17.45.230; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

17.45.120 DESIGNATION OF CITY ENGINEER AS FLOODPLAIN ADMINISTRATOR. The City Engineer is hereby appointed floodplain administrator to administer and implement this Chapter by granting or denying floodplain development permit applications in accordance with its provisions.

17.45.130 FLOODPLAIN ADMINISTRATOR; DUTIES AND RESPONSIBILITIES DESIGNATED. Duties of the floodplain administrator shall include, but not be limited to:

- A. Permit Review.
 1. Review all development permits to determine that the permit requirements of this Chapter have been satisfied;
 2. Review all development permits to determine that all necessary permits have been obtained from those federal, State, or local governmental agencies from which prior approval is required; and
 3. Review all development permits to determine if the proposed development is located in the flood way; if located in the flood way, assure that the encroachment provisions of Section 17.45.260 (A) are met.
- B. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 17.45.060, basis for establishing the areas of special flood hazard, the floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation and flood way data available from any federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Sections 17.45.210 through 17.45.250.

C. Information to be Obtained and Maintained.

1. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
2. For all new or substantially improved flood proofed structures:
 - a. Verify and record the actual elevation (in relation to mean sea level) to which the structure has been flood proofed; and
 - b. Maintain the flood proofing certifications required in subsection 17.45.110 (A)(3); and
3. Maintain for public inspection all records pertaining to the provisions of this Chapter.

D. Alteration of Watercourses.

1. Notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency; and
2. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

E. Interpretation of FIRM Boundaries. Make interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sections 17.45.140 and 17.45.150.

17.45.140 VARIANCE PROCEDURES.

- A. The Board of Adjustment, as established by Chapter 2.40 of the Fruita Municipal Code, shall hear and decide appeals and requests for variances from the requirements of this Chapter.
- B. The Board of Adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this Chapter.
- C. Those aggrieved by the decision of the Board of Adjustment may appeal such decision to

the Mesa County District Court, as provided by law.

- D. In passing upon such applications, the Board of Adjustment shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this Chapter, and
1. The danger that materials may be swept onto other lands to the injury of others;
 2. The danger to life and property due to flooding or erosion damage;
 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 4. The importance of the services provided by the proposed facility to the community;
 5. The necessity to the facility of a waterfront location, where applicable;
 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 7. The compatibility of the proposed use with the existing and anticipated development;
 8. The relationship of the proposed use to the Master Plan and flood plain management program for that area;
 9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as wastewater, gas, electrical, and water systems, streets, and bridges.
- E. Upon consideration of the factors in this Section 17.45.140, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.

- F. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency.

17.45.150 CONDITIONS FOR VARIANCES.

- A. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base level, providing items one (1) thru eleven (11) in Section 17.45.140 (D) have been fully considered. As the lot size increases beyond the one half (1/2) acre, the technical justifications required for issuing the variance increases.
- B. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Section.
- C. Variances shall not be issued within any designated flood way if any increase in flood levels during the base flood discharge would result.
- D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- E. Variances shall only be issued upon:
1. A showing of good and sufficient cause;
 2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and,
 3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 17.45.140 (D), or conflict with existing local laws or ordinances.
- F. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

PART IV. PROVISIONS FOR FLOOD HAZARD REDUCTIONS.

17.45.160 GENERAL STANDARDS. In all areas of special flood hazards, the standards set out in Sections 17.45.170 through 17.45.210 are required.

17.45.170 ANCHORING.

- A. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- B. All manufactured homes and mobile homes must be elevated and anchored to resist flotation, collapse, or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - 1. Over the top ties be provided at each of the four corners of the manufactured home or mobile home, with two (2) additional ties per side at intermediate locations, with mobile homes less than fifty (50) feet long requiring one additional tie per side;
 - 2. Frame ties be provided at each corner of the home, with five (5) additional ties per side at intermediate points, with manufactured homes or mobile homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - 3. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds; and,
 - 4. Any additions to the manufactured or mobile home be similarly anchored.

17.45.180 CONSTRUCTION MATERIALS AND METHODS.

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

17.45.190 UTILITIES.

- A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- B. New and replacement wastewater systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- C. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

17.45.200 SUBDIVISION AND OTHER DEVELOPMENT PROPOSALS.

- A. All subdivision and other development proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision and other development proposals shall have public utilities and facilities, such as wastewater, gas, electrical and water systems, located and constructed to minimize flood damage.
- C. The centerline of all streets providing ingress and egress to proposed subdivisions shall be a minimum of one foot above the one hundred (100) year floodplain elevation.
- D. All subdivision and other development proposals shall have adequate drainage provided to reduce exposure to flood damage.
- E. Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

17.45.210 SPECIFIC STANDARDS APPLICABLE. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 17.45.060, or subsection (B) of Section 17.45.130, the following provisions set out in Sections 17.45.220 through 17.45.250 are required.

17.45.220 RESIDENTIAL CONSTRUCTION STANDARDS. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

17.45.230 NONRESIDENTIAL CONSTRUCTION STANDARDS. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement) elevated to the level of the base flood

elevation; or, together with attendant utility and sanitary facilities, shall:

- A. Be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- C. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards practice for meeting the provisions of this Section. Such certifications shall be provided to the floodplain administrator as set forth in subsection 17.45.130(C)(2).

17.45.240 OPENINGS IN ENCLOSURES BELOW THE LOWEST FLOOR. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- A. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
- B. The bottom of all openings shall be no higher than one (1) foot above grade; and
- C. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

17.45.250 RECREATIONAL VEHICLES. Recreational vehicles shall either:

- A. Be on the site for fewer than thirty-one (31) consecutive days;
- B. Be fully licensed and ready for highway use; or
- C. Meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

17.45.260 FLOOD WAYS. Located within areas of special flood hazards established in Section 17.45.060 are areas designated as flood ways. Since the flood way is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions shall apply:

- A. Encroachments, including fill, new construction, substantial improvements, and other development are prohibited unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- B. If subsection (A) of this Section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Part IV of this Chapter (Sections 17.45.160 through 17.45.260).

17.45.270 MANUFACTURED AND MOBILE HOME STANDARDS.

- A. Manufactured and mobile homes shall be anchored in accordance with the specifications of the Mesa County Building Department and with the requirements set forth in Chapter 17.23.
- B. All manufactured and mobile homes or those to be substantially improved shall conform to the following requirements:
 - 1. Manufactured or mobile homes that are placed or substantially improved in Zone A on a site:
 - a. Outside of a manufactured or mobile home park or subdivision;
 - b. In a new manufactured or mobile home park or subdivision;
 - c. In an expansion to an existing manufactured or mobile home park or subdivision; or
 - d. In an existing manufactured or mobile home park or subdivision, on which a manufactured or mobile home has incurred "substantial damage" as the result of a flood; or shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - 2. Manufactured or mobile homes be placed or substantially improved on sites in existing manufactured or mobile home parks or subdivisions that are not subject to the provisions in subsection (B)(1) above shall be elevated so that either:
 - a. The lowest floor of the manufactured or mobile home is at or above the base flood elevation; or

- b. The manufactured or mobile home chassis is supported by reinforced piers or other foundation elements that are no less than thirty-six (36) inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

PART V. DEFINITIONS

FLOOD CONTROL DEFINITIONS. The following definitions are applicable to the flood control regulations:

- A. **APPEAL** - A request for a review of the Floodplain Administrator's interpretation of any provision of this Title or a request for a variance.
- B. **SPECIAL FLOOD HAZARD AREA (SFHA)**- The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.
- C. **BASE FLOOD** - The flood having a one (1) percent chance of being equaled or exceeded in any given year. Also referred to as the 100-year flood.
- D. **DEVELOPMENT** - Any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.
- E. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) are completed before the effective date of this Title.
- F. **EXPANSION TO EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- G. **FLOOD OR FLOODING** - A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - 1. The overflow of inland or tidal waters, and/or;
 - 2. The unusual and rapid accumulation or runoff of surface waters from any source.

- H. FLOOD INSURANCE RATE MAP (FIRM) - The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- I. FLOOD INSURANCE STUDY (FIS)- The official report provided by the Federal Emergency Management Agency that includes flood profiles, used to administer the National Flood Insurance Program.
- J. FLOODWAY - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- K. LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Title.
- L. MANUFACTURED HOME - A structure that is transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."
- M. NEW CONSTRUCTION - Structures for which the "start of construction" commenced on or after the effective date of the original ordinance codified in this Title, and includes any subsequent improvements to such structures.
- N. NEW MANUFACTURED HOME PARK OR SUBDIVISION - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the city's flood control regulations.
- O. OBSTRUCTION - (Relating to floodplains) A dam, wall, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter, in, along, across, or projecting into any drainway, channel, or watercourse, which might impede, retard or change the direction of the flow of water, either by itself or by catching and collecting debris carried by the water, or which is placed where the one hundred-year flood may carry the debris downstream.
- P. ONE HUNDRED YEAR FLOODPLAIN – See Special Flood Hazard Area.

- Q. RECREATIONAL VEHICLE - A vehicle which is:
1. Built on a single chassis;
 2. Four hundred (400) square feet or less when measured at the largest horizontal projections;
 3. Designed to be self propelled or permanently towable by a light duty truck; and
 4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.
- R. START OF CONSTRUCTION - Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means the first placement of permanent construction of a structure on a site; such as, the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation; such as, clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings; such as, garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- S. STRUCTURE - A walled and roofed building or manufactured home that is principally above ground.
- T. SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
- U. SUBSTANTIAL IMPROVEMENT - Any reconstruction or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local Code Enforcement Official and which are the minimum necessary to assure safe living conditions, or
 2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as an "historic structure".
- V. VARIANCE - A grant of relief from the requirements of the flood control regulation contained in Chapter 17.45 of this Title which permits construction in a manner that would otherwise be prohibited by this Title.

Chapter 17.47
VESTED PROPERTY RIGHTS

Sections:

- 17.47.010 Purpose**
- 17.47.020 Definitions**
- 17.47.030 Applications; Approval by the City**
- 17.47.040 Alternative Creation of Vested Property Rights**
- 17.47.050 Establishment of Vested Property Rights; Public Notice and Hearing Required**
- 17.47.060 Approval of Site Specific Development Plan; Conditions**
- 17.47.070 Duration and Termination of Vested Property Rights**
- 17.47.080 Waiver of Vested Property Rights**
- 17.47.090 Subsequent Regulation Prohibited; Exceptions**
- 17.47.100 Payment of Costs**
- 17.47.110 Other Provisions Unaffected**
- 17.47.120 Limitations**

17.47.010 PURPOSE. The purpose of this Chapter is to provide the procedures necessary to implement the provisions of Article 68 of Title 24, Colorado Revised Statutes, which Article establishes a vested property right to undertake and complete development and use of real property under the terms and conditions of a site specific development plan.

17.47.020 DEFINITIONS. Unless modified in this Section, the terms used in this Chapter shall have the same meaning as set forth in Section 24-68-102, C.R.S. As used in this Chapter, unless the context otherwise requires:

- A. A "site specific development plan" means a plan that has been submitted to the city by a landowner or such landowner's representative describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property, which plan shall create a vested property right. The following shall be considered "site specific development plans":

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
1. Site Design review for residential, commercial, industrial, and institutional developments pursuant to Section 17.13.020	Site Plan as approved by City Council or the Community Development Director
2. Conditional Use review pursuant to Section 17.13.040	Conditional Use Permit as approved by City Council

DEVELOPMENT REVIEW PROCEDURE	SITE SPECIFIC DEVELOPMENT PLAN
3. Minor subdivisions pursuant to Chapter 17.15.	Subdivision Final Plat as approved by Community Development Department Director
4. Major subdivisions pursuant to Chapter 17.15	Subdivision Final Plat as approved by the Community Development Department AND the applicable subdivision improvements agreement as approved by the City Council
5. Planned Unit Development review, not accompanied by subdivision of land pursuant to Chapter 17.17	Final PUD Plan and any applicable PUD Guide and development improvements agreement, as approved by City Council
6. Planned Unit Development review pursuant to Chapter 17.17, accompanied by subdivision of land pursuant to Chapter 17.15	Subdivision Final Plat together with Final PUD Plan, PUD Guide and any applicable development or subdivision improvements agreement, as approved by City Council

If not indicated above, a "site specific development plan" shall mean the final approval step, irrespective of the name or designation of such approval, which occurs prior to a Planning Clearance application for a building permit.

Provided however, the City Council may, by agreement with the applicant, designate an approval step other than those indicated above, or the final approval step, to serve as the "site specific development plan" approval for a specific project.

The following are specifically excluded from, and shall not constitute, a "site specific development plan": variances issued by the Board of Adjustment, subdivision Sketch Plans, subdivision Preliminary Plans, PUD Concept Plans, PUD Preliminary Plans, business licenses, floodway or floodplain permits, franchises, temporary use permits, any Master Plan element, creation of improvement districts, zoning, rezoning other than Planned Unit Developments, final architectural plans, or final construction drawings and related documents specifying materials and methods for construction of improvements.

- B. "Vested property right" means the right to undertake and complete development and use of property under the terms and conditions of a "site specific development plan."

17.47.030 APPLICATIONS; APPROVAL BY THE CITY.

- A. Except as otherwise provided in this Section, an application for approval of a "site specific development plan" as well as the approval, conditional approval, or denial of approval of a plan shall be governed only by the duly adopted laws and regulations in effect at the time the application is submitted to the city. For purposes of this Section, "laws and regulations" includes any zoning, development, or land use law of general applicability adopted by the city as well as any zoning, development or land use regulations that have previously been adopted for the particular parcel described in the plan and that remain in effect at the time of application for approval of the plan. In the event the application for a "site specific development plan" requires review and approval in multiple stages, "application" means the original application submitted at the first stage in any multi-stage process that may culminate in the ultimate approval of a "site specific development plan."
- B. Notwithstanding the limitations contained in subsection (A) above, the city may adopt a new or amended law or regulation when necessary for the immediate preservation of public health and safety and may enforce such law or regulation in relation to applications for "site specific development plans" pending at the time such law or regulation is adopted.

17.47.040 ALTERNATIVE CREATION OF VESTED PROPERTY RIGHTS. If any applicant desires an approval step, other than as defined in subsection 17.47.020(A) above, to constitute an approval of a "site specific development plan" with the effect of creating vested property rights pursuant to this Chapter and Article 68 of Title 24, C.R.S., the applicant must so request at least thirty (30) days prior to the date of the public hearing on said approval step by the City Council or Planning Commission, as applicable, is to be considered. Failure to do so renders the approval by the City Council or Planning Commission, as the case may be, to not constitute an approval of a "site specific development plan" and no vested property right shall be deemed to have been created by such approval, except in the case of an approval as set forth in subsection 17.47.020(A) above.

17.47.050 ESTABLISHMENT OF VESTED PROPERTY RIGHTS; PUBLIC NOTICE AND HEARING REQUIRED. A vested property right shall be deemed established with respect to any property upon the approval, or conditional approval, of a "site specific development plan", following notice and public hearing, by the city. A vested property right shall attach to and run with the applicable property and shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the "site specific development plan", as approved, including any amendments thereto. A "site specific development plan" shall be deemed approved upon the effective date of the city's legal action, resolution or ordinance relating thereto. Such approval shall be subject to all rights of referendum and

judicial review; except that the period of time permitted by law for the exercise of such rights shall not begin to run until the date of publication, in a newspaper of general circulation within the city, of a notice advising the general public of the "site specific development plan" approval and creation of a vested property right pursuant to this Chapter and Article 68 of Title 24, C.R.S. Such publication shall occur no later than fourteen (14) days following approval.

17.47.60 APPROVAL OF SITE SPECIFIC DEVELOPMENT PLAN; CONDITIONS.

- A. The city may approve a "site specific development plan" upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare, and failure to abide by such terms and conditions, at the option of the City Council following a public hearing, shall result in the forfeiture of vested property rights. This subsection shall be strictly construed.
- B. Terms and conditions imposed or agreed upon may include, without limitation:
 - 1. Future approvals by the city not inconsistent with the original approval;
 - 2. Approvals by other agencies or other governments;
 - 3. Satisfactory inspections;
 - 4. Completion of all or certain phases or filings of a project by certain dates;
 - 5. Waivers of certain rights;
 - 6. Completion and satisfactory review of studies and reports;
 - 7. Payment of fees to the city or other governmental or quasi- governmental agencies as they become due and payable;
 - 8. Payment of costs and expenses incurred by the city relating to the review and approval;
 - 9. Continuing review and supervision of the plan and its implementation and development;
 - 10. Obtaining and paying for planning clearances, building permits, water plant investment fees (taps) and wastewater plant investment fees (taps);
 - 11. Compliance with other codes and laws, including building codes, of general applicability;
 - 12. Construction of on-site or off-site improvements or facilities for the use of future inhabitants or the public at large;

13. Payment of any applicable impact fees; and
14. Dedication or conveyance of public site or parkland, trails, school land, common area or open spaces, with provision for its maintenance; or payment of a fee in lieu thereof, and dedication of necessary easements and rights-of-way.

17.47.070 DURATION AND TERMINATION OF VESTED PROPERTY RIGHTS.

- A. A property right, which has been vested pursuant to this Chapter and Article 68 of Title 24, C.R.S., shall remain vested for a period of three (3) years. This vesting period shall not be extended by any amendments to a "site specific development plan" unless expressly authorized by the City Council.
- B. Notwithstanding the provisions of subsection (A) above, the City Council is authorized to enter into development agreements with landowners providing that property rights shall be vested for a period exceeding three (3) years where warranted in the light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. Such development agreements shall be adopted as legislative acts subject to referendum.
- C. Following approval or conditional approval of a "site specific development plan", nothing contained in this Chapter or Article 68 of Title 24, C.R.S. shall exempt such a plan from subsequent reviews and approvals by the city to insure compliance with the terms and conditions of the original approval, if such further reviews and approvals are not inconsistent with said original approval.

17.47.080 WAIVER OF VESTED PROPERTY RIGHTS. An applicant may waive a vested property right by separate written agreement, which shall be recorded in the office of the Mesa County Clerk and Recorder. Unless otherwise agreed to by the City Council, any landowner requesting annexation to the City of Fruita shall waive in writing any pre-existing vested property rights as a condition of such annexation.

17.47.090 SUBSEQUENT REGULATION PROHIBITED; EXCEPTIONS.

- A. A vested property right, once established as provided in this Chapter and Article 68 of Title 24, C.R.S., precludes any zoning or other land use action by the city or pursuant to an initiated measure which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay the development or use of the property as set forth in an approved "site specific development plan," except:
 1. With the consent of the affected landowner;

2. Upon the discovery of natural or manmade hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of "site specific development plan" approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
 3. To the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner after approval by the city, including, but not limited to, costs incurred in preparing the site for development consistent with the "site specific development plan", all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultants' fees, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the property, which is caused by such action.
- B. Establishment of a vested property right pursuant to law shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the City of Fruita, including, but not limited to, building, fire, plumbing, electrical, housing, mechanical, and dangerous building codes.

17.47.100 PAYMENT OF COSTS. In addition to any and all other fees and charges imposed by this Title, the applicant for approval of a "site specific development plan" shall pay all costs incurred by the city as a result of the "site specific development plan" review and approval, including publication of notices, public hearing and review costs, when such costs are incurred apart and in addition to costs otherwise incurred by the city or applicant for a public hearing relative to the subject property.

17.47.110 OTHER PROVISIONS UNAFFECTED. Approval of a "site specific development plan" shall not constitute an exemption from or waiver of any other provisions of this Title pertaining to the development and use of property.

17.47.120 LIMITATIONS. Nothing in this Chapter is intended to create any vested property right, but only to implement Article 68 of Title 24, C.R.S., as amended. In the event of the repeal of said Article or judicial determination that said Article is invalid or unconstitutional, this Chapter shall be deemed to be repealed and the provisions hereof no longer effective.